



Sen. David Koehler

Filed: 4/20/2010

09600HB4778sam001

LRB096 16500 AJT 40201 a

1 AMENDMENT TO HOUSE BILL 4778

2 AMENDMENT NO. _____. Amend House Bill 4778 on page 1, by
3 replacing lines 4 through 6 with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Conveyance and Encumbrance of Manufactured Homes as Real
6 Property Act.

7 Section 5. Findings and purpose.

8 (a) The General Assembly finds that there is a need to
9 clarify the legal status of manufactured homes affixed or to be
10 affixed to real property in the state.

11 (b) The purpose of this Act is to establish a clear
12 statutory procedure for converting to real property
13 manufactured homes that are affixed to such real property and
14 for the severance of manufactured homes from real property.

15 Section 10. Manufactured home; permanently affixed to real

1 property. For the purposes of this Act, "manufactured home"
2 means a manufactured home as defined in subdivision (53) of
3 Section 9-102 of the Uniform Commercial Code. For purposes of
4 this Act, a manufactured home is "permanently affixed" if it is
5 anchored to real property by attachment to a permanent
6 foundation; constructed pursuant to applicable state and local
7 building codes and manufacturer specifications as provided in
8 24 C.F.R. Part 3285; and connected to residential utilities
9 (such as water, gas, electricity, or sewer or septic service).
10 Notwithstanding the foregoing, for the purposes of 11 USC
11 1322(b)(2), a manufactured home shall be deemed to be real
12 property.

13 Section 15. Record notice. To convey or voluntarily
14 encumber a manufactured home as real property, the following
15 conditions shall be met:

16 (1) the manufactured home shall be permanently affixed to
17 real property;

18 (2) the ownership interests in the manufactured home and
19 the real property to which the manufactured home is or shall be
20 permanently affixed shall be identical, provided, however,
21 that the owner of the manufactured home, if not the owner of
22 the real property, is in possession of the real property
23 pursuant to the terms of a lease in recordable form that has a
24 term that continues for at least 20 years after the date of
25 execution, and has the consent of the lessor of the real

1 property;

2 (3) the person or persons having an ownership interest in
3 the manufactured home shall execute and record with the
4 recording officer of the county in which the real property is
5 located, an affidavit of affixation as provided in Section 20
6 of this Act, and satisfy any other applicable requirements of
7 this Act; and

8 (4) upon receipt of a certified copy of the affidavit of
9 affixation pursuant to Section 30 of this Act, any person
10 designated therein for filing with the Secretary of State shall
11 file the certified copy of affidavit of affixation with the
12 Secretary of State. Except that:

13 (A) in a case described in subsection (a)(4)(A) of
14 Section 20 of this Act, a certified copy of the affidavit
15 of affixation and the original Manufacturer's Statement of
16 Origin, each as recorded in the county in which the real
17 property is located, shall be filed with the Secretary of
18 State pursuant to Section 3-116.1 of the Illinois Vehicle
19 Code; and

20 (B) in a case described in subsection (a)(4)(B) of
21 Section 20 of this Act, a certified copy of the affidavit
22 of affixation as recorded in the county in which the real
23 property is located, and the original certificate of title
24 shall be filed with the Secretary of State pursuant to
25 Section 3-116.2 of the Illinois Vehicle Code.

1 Section 20. Affidavit of affixation.

2 (a) An affidavit of affixation shall contain or be
3 accompanied by:

4 (1) the name of the manufacturer, the make, the model
5 name, the model year, the dimensions, the vehicle
6 identification number or numbers of the manufactured home,
7 and whether the manufactured home is new or used;

8 (2) (A) a statement that the party executing the
9 affidavit is the owner of the real property described
10 therein; or (B) if not the owner of the real property, (i)
11 a statement that the party executing the affidavit is in
12 possession of the real property pursuant to the terms of a
13 lease in recordable form that has a term that continues for
14 at least 20 years after the date of execution of the
15 affidavit, and (ii) the consent of the lessor of the real
16 property endorsed upon or attached to the affidavit and
17 acknowledged or proved in the manner as to entitle a
18 conveyance to be recorded;

19 (3) the street address and the legal description of the
20 real property to which the manufactured home is or shall be
21 permanently affixed;

22 (4) as applicable:

23 (A) if the manufactured home is not covered by a
24 certificate of title, including, if applicable, a
25 certificate of title issued in accordance with
26 subsection (b) of Section 3-109 of the Illinois Vehicle

1 Code, a statement by the owner to that effect, and a
2 statement by the owner of the manufactured home that
3 the manufactured home is covered by a Manufacturer's
4 Statement of Origin, the date the Manufacturer's
5 Statement of Origin was issued, the vehicle
6 identification number or numbers of the manufactured
7 home, and a statement that annexed to the affidavit of
8 affixation is the original Manufacturer's Statement of
9 Origin for the manufactured home, duly endorsed to the
10 owner of the manufactured home, and that the owner of
11 the manufactured home shall surrender the
12 Manufacturer's Statement of Origin;

13 (B) if the manufactured home is covered by a
14 certificate of title, including, if applicable, a
15 certificate of title issued in accordance with
16 subsection (b) of Section 3-109 of the Illinois Vehicle
17 Code, a statement by the owner of the manufactured home
18 that the manufactured home is covered by a certificate
19 of title, the date the title was issued, the title
20 number, and that the owner of the manufactured home
21 shall surrender the title;

22 (5) a statement whether or not the manufactured home is
23 subject to one or more security interests or liens, and:

24 (A) if the manufactured home is subject to one or
25 more security interests or liens, the name and address
26 of each party holding a security interest in or lien on

1 the manufactured home, including but not limited to,
2 each holder shown on any certificate of title issued by
3 the Secretary of State, if any; the original principal
4 amount secured by each security interest or lien; and a
5 statement that the security interest or lien shall be
6 released; or

7 (B) a statement that each security interest in or
8 lien on the manufactured home, if any, has been
9 released, together with due proof of each such release;

10 (6) a statement that the manufactured home is or shall
11 be permanently affixed to the real property; and

12 (7) the name and address of a person designated for
13 filing the certified copy of the affidavit of affixation
14 with the Secretary of State, to whom the recording officer
15 shall return the certified copy of the affidavit of
16 affixation after it has been duly recorded in the real
17 property records, as provided in Section 30 of this Act.

18 (b) An affidavit of affixation shall be in the form set
19 forth in subsection (c) of this Section, duly acknowledged or
20 proved in like manner as to entitle a conveyance to be
21 recorded, and when so acknowledged or proved and upon payment
22 of the lawful fees therefor, the recording officer shall
23 immediately cause the affidavit of affixation and any
24 attachments thereto to be duly recorded and indexed in the
25 record of deeds.

26 (c) An affidavit of affixation shall be in the form set

1 for the Home, (ii) the Consumer Manual for the Home, (iii)
 2 the Insulation Disclosure for the Home, (iv) the
 3 formaldehyde health notice, and (v) the Dispute Resolution
 4 Disclosure required by 24 C.F.R. 3288.5.

5 4. The street address of the real property to which the Home is
 6 or shall be permanently affixed ("Property Address") is:

7
 8 (Street or Route; City; County; State; Zip Code)

9 5. The legal description of the real property to which the Home
 10 is or shall be permanently affixed ("Land") is:

11
 12
 13
 14

15 6. Homeowner is the owner of the Land or, if not the owner of
 16 the Land, is in possession of the Land pursuant to a lease
 17 in recordable form that has a term that continues for at
 18 least 20 years after the date of the execution of this
 19 Affidavit, and the consent of the lessor is attached to
 20 this Affidavit.

21 7. The Home is or shall be assessed and taxed as an improvement
 22 to the Land.

23 8. As of the date of the execution of this Affidavit, or, if

1 the Home is not yet located at the Property Address, upon
2 the delivery of the Home to the Property Address:

3 (a) All permits required by governmental authorities have
4 been obtained;

5 (b) The Home [] is [] shall be permanently affixed as
6 defined in Section 10 of the Conveyance and Encumbrance of
7 Manufactured Homes as Real Property Act;

8 (c) The wheels, axles, towbar, or hitch were removed when
9 the Home was placed on the Property Address; and

10 (d) The Home has the characteristics of site-built housing
11 and is part of the Land.

12 9. The Home [] was [] was not permanently affixed before
13 January 1, 2011.

14 10. If Homeowner is the owner of the Land, any conveyance or
15 financing of the Home and the Land shall be a single
16 transaction under applicable State law.

17 11. The Home is subject to the following security interests or
18 liens:

19 Name of Lienholder:

20 Address:

21 Original Principal:

22 Amount Secured:

23 Name of Lienholder:

24 Address:

1 Original Principal:

2 Amount Secured:

3 12. Other than those disclosed in this Affidavit, Homeowner is
 4 not aware of (i) any other security interest, claim, lien
 5 or encumbrance affecting the Home or (ii) any other facts
 6 or information that could reasonably affect the validity of
 7 the title of the Home or the existence or non-existence of
 8 security interests in it.

9 13. A release of lien from each of the lienholders identified
 10 in paragraph 11 of this Affidavit has been shall be
 11 delivered to the Secretary of State.

12 14. Homeowner shall initial only one of the following, as it
 13 applies to the Home:

14 The Home is not covered by a certificate of title. The
 15 Home is covered by a Manufacturer's Statement of Origin,
 16 issued on the of,, manufacturer's
 17 vehicle identification number, which
 18 Homeowner shall surrender. The original Manufacturer's
 19 Statement of Origin, duly endorsed to Homeowner, is attached
 20 to this Affidavit.

21 The Home is covered by a certificate of title issued
 22 on the of,, title number
 23, which Homeowner shall surrender.

24 15. Homeowner designates the following person to file a
 25 certified copy of this Affidavit with the Secretary of

1 State, and the person to whom the Recorder shall return a
2 certified copy of this Affidavit after it has been duly
3 recorded in the real property records:

4 Name:.....

5 Address:

6 16. This Affidavit is executed by Homeowner pursuant to Section
7 20 of the Conveyance and Encumbrance of Manufactured Homes
8 as Real Property Act.

9

10 IN WITNESS WHEREOF, Homeowner(s) has/have executed this
11 Affidavit in my presence and in the presence of the
12 undersigned witnesses on this day of,

13 (SEAL)

14 Homeowner #1 Witness

15

16 Printed Name

17 (SEAL)

18 Homeowner #2 Witness

19

20 Printed Name

21 (SEAL)

1 Homeowner #3 Witness

2

3 Printed Name

4 (SEAL)

5 Homeowner #4 Witness

6

7 Printed Name

8 STATE OF)

9) SS.

10 COUNTY OF)

11 The foregoing instrument was acknowledged before me this
12 (date) by (name(s) of person(s) who acknowledged).

13 Notary Public

14 Signature

15 My commission expires:

16 Official Seal:

17 ATTENTION RECORDER: This instrument covers goods that are
18 or are to become fixtures on the Property described herein and
19 is to be filed for record in the records where conveyances of
20 real estate are recorded.

1 Section 25. Disposition of liens. Neither the act of
2 permanently affixing a manufactured home to real property, nor
3 the recording of the affidavit of affixation shall impair the
4 rights of any holder of a security interest in or lien on a
5 manufactured home that was perfected as provided in Section
6 3-202 of the Illinois Vehicle Code, unless and until an
7 application to (i) surrender the title, as provided in Section
8 3-116.2 of the Illinois Vehicle Code, and (ii) release the
9 security interest or lien, as provided in Section 3-205 of the
10 Illinois Vehicle Code, has been duly filed with and accepted by
11 the Secretary of State. Upon the filing of the release, such
12 perfected security interest or lien is terminated. The
13 recording of an affidavit of affixation does not change the
14 character of any security interest or lien noted on a
15 certificate of title, and no recording tax shall be imposed at
16 the time an affidavit of affixation is recorded upon any
17 security interest in or lien on a manufactured home perfected
18 under Section 3-202 of the Illinois Vehicle Code.

19 Section 30. Notice to Secretary of State. Upon payment of
20 the fees provided by law and recordation of the affidavit of
21 affixation, the recording officer shall endorse the affidavit
22 as "recorded in land records", setting forth thereon the
23 indexing information for the affidavit of affixation; and the
24 recording officer shall forthwith forward a certified copy of

1 the affidavit of affixation and all attachments thereto to the
2 person designated therein for filing with the Secretary of
3 State. Upon receipt of a certified copy of the affidavit of
4 affixation by the person designated therein for filing with the
5 Secretary of State, that person shall forthwith deliver for
6 filing to the Secretary of State the certified copy of the
7 affidavit of affixation and other documents as provided in
8 subsection (4) of Section 15 of this Act.

9 Section 35. Effect of recorded affidavit of affixation. A
10 manufactured home shall be deemed to be real property when all
11 of the following events have occurred:

12 (a) the manufactured home is permanently affixed to land as
13 provided in Section 10 of this Act;

14 (b) an affidavit of affixation conforming to the
15 requirements of Section 20 of this Act has been recorded;

16 (c) a certified copy of the affidavit of affixation has
17 been delivered for filing to the Secretary of State as provided
18 in Section 30 of this Act; and

19 (d) the requirements of Section 3-116.1 or 3-116.2 of the
20 Illinois Vehicle Code, as applicable, have been satisfied.

21 Section 40. Conveyance and encumbrance as real property.
22 Upon the satisfaction of the requirements of Section 35 of this
23 Act and, as applicable, the requirements of Section 3-116.1 or
24 3-116.2 of the Illinois Vehicle Code, the manufactured home

1 shall be deemed to be real property; any mortgage, deed of
2 trust, lien or security interest which can attach to land and
3 buildings erected thereon or fixtures affixed thereto shall
4 attach as of the date of its recording in the same manner as if
5 the manufactured home were built from ordinary building
6 materials on site; title to the manufactured home shall be
7 transferred by deed or other form of conveyance that is
8 effective to transfer an interest in real property, together
9 with the land to which the structure has been affixed; and the
10 manufactured home shall be deemed to be real property and shall
11 be governed by the laws applicable to real property.

12 Section 45. Manufactured home that remains personal
13 property or a fixture. Except as provided in Sections 20, 30,
14 35, and 40 of this Act, an affidavit of affixation is not
15 necessary or effective to convey or encumber a manufactured
16 home or to change the character of a manufactured home to real
17 property. Every conveyance of land upon which is located a
18 manufactured home for which no affidavit of affixation has been
19 recorded or for which an affidavit of severance has been
20 recorded, shall contain a recital that such conveyance does not
21 affect the title to the manufactured home and that the transfer
22 or encumbrance thereof can only be made pursuant to the
23 provisions of the Illinois Vehicle Code. Any agreement by any
24 party to the transaction whereby the requirements of this
25 Section are waived shall be void as contrary to public policy.

1 Section 50. Applicability. Nothing in this Act shall impair
2 any rights existing under the law prior to the effective date
3 of this Act of anyone claiming an interest in a manufactured
4 home.

5 Section 55. Affidavit of severance.

6 (a) If and when a manufactured home for which an affidavit
7 of affixation has been recorded is detached or severed from the
8 real property to which it is affixed, the person or persons
9 having an interest in the real property shall record an
10 affidavit of severance in the land records of the county where
11 the affidavit of affixation for the manufactured home is
12 recorded. The affidavit of severance shall contain or be
13 accompanied by:

14 (1) the name, residence, and mailing address of the
15 owner of the manufactured home;

16 (2) a description of the manufactured home including
17 the name of the manufacturer, the make, the model name, the
18 model year, the dimensions, the vehicle identification
19 number or numbers of the manufactured home, and whether it
20 is new or used;

21 (3) the book number, page number, and date of
22 recordation of the affidavit of affixation;

23 (4) a statement of either (A) any facts or information
24 known to the party executing the affidavit that could

1 reasonably affect the validity of the title of the
 2 manufactured home or the existence or non-existence of a
 3 security interest in or lien on it, or (B) that no such
 4 facts or information are known to such party; and

5 (5) the name and address of the person designated for
 6 filing the certified copy of the affidavit of severance
 7 with the Secretary of State, to whom the recording officer
 8 shall return the certified copy of the affidavit of
 9 severance after it has been duly recorded in the real
 10 property records, as provided in subsection (d) of this
 11 Section.

12 (b) The affidavit of severance shall be in the form set
 13 forth in subsection (c) of this Section, duly acknowledged or
 14 proved in like manner as to entitle a conveyance to be
 15 recorded, and when so acknowledged or proved and upon payment
 16 of the lawful fees therefor, such recording officer shall
 17 immediately cause the affidavit and any attachments thereto to
 18 be duly recorded and indexed in the record of deeds.

19 (c) An affidavit of severance shall be in the form set
 20 forth below:

21 MANUFACTURED HOME

22 AFFIDAVIT OF SEVERANCE

23 STATE OF)

24)SS.

1 COUNTY OF

2 BEFORE ME, the undersigned notary public, on this day
3 personally appeared (type the name(s) of
4 each person signing this Affidavit) known to me to be the
5 person(s) whose name(s) is/are subscribed below (each an
6 "Affiant"), and who, being by me first duly sworn, did each on
7 his or her oath state as follows:

8 1. The owner(s) of the manufactured home described below
9 reside(s) at the following address:

10
11 (Street or Route; City; County; State; Zip Code)

12 Mailing address, if different:

13
14 (Street or Route; City; County; State; Zip Code)

15 2. The manufactured home which is the subject of this Affidavit
16 ("Home") is described as follows:

17
18 (New/Used; Year; Manufacturer's Name; Model Name and Model
19 No.; Manufacturer's VIN No(s).; Length/Width)

20 3. The Home was severed from the following address ("Land"):

21

1 (Street or Route; City; County; State; Zip Code)

2 4. An Affidavit of Affixation was duly recorded in the land
3 records of the county in which the Land is located on
4 (date), in book number at page
5 number

6 5. Affiant is the owner of the Land or, if not the owner of
7 the Land, is in possession of the Land pursuant to a
8 lease in recordable form, and the consent of the lessor
9 is attached to this Affidavit.

10 6. The Home is subject to the following security interests:

11 Name of Lienholder:
12 Address:
13 Original Principal:
14 Amount Secured:

15 Name of Lienholder:
16 Address:
17 Original Principal:
18 Amount Secured:

19 7. Other than those disclosed in this Affidavit, Affiant is
20 not aware of (i) any other security interest, claim, lien
21 or encumbrance affecting the Home, or (ii) any other
22 facts or information that could reasonably affect the

1 validity of the title of the Home or the existence or
2 non-existence of security interests in it.

3 8. A release of lien from each of the lienholders identified
4 in paragraph 6 of this Affidavit [] has been [] shall be
5 delivered to the Secretary of State.

6 9. Affiant designates the following person to file a
7 certified copy of this Affidavit with the Secretary of
8 State, and the person to whom the Recorder shall return a
9 certified copy of this Affidavit after it has been duly
10 recorded in the real property records:

11 Name:.....

12 Address:

13 10. This Affidavit is executed by Affiant pursuant to Section
14 55 of the Conveyance and Encumbrance of Manufactured
15 Homes as Real Property Act.

16
17 IN WITNESS WHEREOF, Affiant(s) has/have executed this
18 Affidavit in my presence and in the presence of the
19 undersigned witnesses on this day of
20,

21
22 (SEAL)

23 Homeowner #1 Witness

24

25 Printed Name

1 Manufacturer's Statement of Origin to a manufactured home may
2 deliver it to any person to facilitate conveying or encumbering
3 the home. Any person receiving the Manufacturer's Statement of
4 Origin, so delivered, holds it in trust for the person
5 delivering it.

6 (b) Lien release. The holder of a security interest in a
7 manufactured home may deliver lien release documents to any
8 person to facilitate conveying or encumbering the home. Any
9 person receiving the lien release documents, so delivered,
10 holds the documents in trust for the lienholder.

11 Section 65. The Mobile Home Local Services Tax Act is
12 amended by changing Section 1 as follows:

13 (35 ILCS 515/1) (from Ch. 120, par. 1201)

14 Sec. 1. As used in this Act, "mobile home" means a factory
15 assembled structure designed for permanent habitation and so
16 constructed as to permit its transport on wheels, temporarily
17 or permanently attached to its frame, from the place of its
18 construction to the location, or subsequent locations, and
19 placement on a temporary foundation, at which it is intended to
20 be a permanent habitation, and situated so as to permit the
21 occupancy thereof as a dwelling place for one or more persons,
22 and includes a manufactured home as defined in paragraph (53)
23 of Section 9-102 of the Uniform Commercial Code, provided that
24 any such structure resting in whole on a permanent foundation,

1 with wheels, tongue and hitch removed at the time of
2 registration provided for in Section 4 of this Act, shall not
3 be construed as a "mobile home", but shall be assessed and
4 taxed as real property as defined by Section 1-130 of the
5 Property Tax Code. A manufactured home as defined in paragraph
6 (53) of Section 9-102 of the Uniform Commercial Code that is
7 real property as defined in Section 40 of the Conveyance and
8 Encumbrance of Manufactured Homes as Real Property Act, shall
9 not be construed as a "mobile home", but shall be assessed and
10 taxed as real property as defined by Section 1-130 of the
11 Property Tax Code. Mobile homes owned by a corporation or
12 partnership and on which personal property taxes are paid as
13 required under the Revenue Act of 1939 shall not be subject to
14 this tax. Mobile homes located on a dealer's lot for resale
15 purposes or as an office shall not be subject to this tax.

16 (Source: P.A. 88-670, eff. 12-2-94.)

17 Section 70. The Illinois Banking Act is amended by changing
18 Sections 3, 5a, 5d, and 6.1 as follows:

19 (205 ILCS 5/3) (from Ch. 17, par. 309)

20 Sec. 3. Formation and primary powers. It shall be lawful to
21 form banks, as herein provided, for the purpose of discount and
22 deposit, buying and selling exchange and doing a general
23 banking business, excepting the issuing of bills to circulate
24 as money; and such banks shall have the power to loan money on

1 personal and real estate security, and to accept and execute
2 trusts upon obtaining a certificate of authority pursuant to
3 the "Corporate Fiduciary Act", and shall be subject to all of
4 the provisions of this Act. For purposes of this Section, "real
5 estate" includes a manufactured home as defined in paragraph
6 (53) of Section 9-102 of the Uniform Commercial Code that is
7 real property as defined in Section 40 of the Conveyance and
8 Encumbrance of Manufactured Homes as Real Property Act.

9 (Source: P.A. 85-1402.)

10 (205 ILCS 5/5a) (from Ch. 17, par. 312)

11 Sec. 5a. Reverse mortgage loans. Notwithstanding any other
12 provision of this Act, a bank may engage in making "reverse
13 mortgage" loans.

14 For purposes of this Section, a "reverse mortgage" loan
15 shall be a loan extended on the basis of existing equity in
16 homestead property. A bank, in making a "reverse mortgage"
17 loan, may add deferred interest to principal or otherwise
18 provide for the charging of interest or premium on the deferred
19 interest.

20 The loans shall be repaid upon sale of the property or upon
21 the death of the owner or, if the property is in joint tenancy,
22 upon the death of the last surviving joint tenant who had an
23 interest in the property at the time the loan was initiated.

24 "Homestead" property, for purposes of this Section, means
25 the domicile and contiguous real estate owned and occupied by

1 the mortgagor, and includes a manufactured home as defined in
2 paragraph (53) of Section 9-102 of the Uniform Commercial Code
3 that is used as the domicile and is real property as defined in
4 Section 40 of the Conveyance and Encumbrance of Manufactured
5 Homes as Real Property Act.

6 The Commissioner of Banks and Real Estate shall prescribe
7 rules governing this Section and Section 1-6a of the Illinois
8 Savings and Loan Act of 1985.

9 (Source: P.A. 88-643, eff. 1-1-95; 89-508, eff. 7-3-96.)

10 (205 ILCS 5/5d) (from Ch. 17, par. 312.3)

11 Sec. 5d. Notwithstanding any other provision of this Act, a
12 bank may engage in making revolving credit loans secured by
13 mortgages or deeds of trust on real property or by security
14 assignments of beneficial interests in land trusts.

15 For purposes of this Section, "revolving credit", has the
16 meaning defined in Section 4.1 of "An Act in relation to the
17 rate of interest and other charges in connection with sales on
18 credit and the lending of money", approved May 24, 1879, as
19 amended.

20 Any mortgage or deed of trust given to secure a revolving
21 credit loan may, and when so expressed therein shall, secure
22 not only the existing indebtedness, but also such future
23 advances, whether such advances are obligatory or to be made at
24 the option of the lender, or otherwise, as are made within
25 twenty years from the date thereof, to the same extent as if

1 such future advances were made on the date of the execution of
2 such mortgage or deed of trust, although there may be no
3 advance made at the time of execution of such mortgage or other
4 instrument, and although there may be no indebtedness
5 outstanding at the time any advance is made. The lien of such
6 mortgage or deed of trust, as to third persons without actual
7 notice thereof, shall be valid as to all such indebtedness and
8 future advances from the time said mortgage or deed of trust is
9 filed for record in the office of the Recorder of Deeds or the
10 Registrar of Titles of the county where the real property
11 described therein is located. The total amount of indebtedness
12 that may be so secured may increase or decrease from time to
13 time, but the total unpaid balance so secured at any one time
14 shall not exceed a maximum principal amount which must be
15 specified in such mortgage or deed of trust, plus interest
16 thereon, and any disbursements made for the payment of taxes,
17 special assessments, or insurance on said real property, with
18 interest on such disbursements.

19 Any such mortgage or deed of trust shall be valid and have
20 priority over all subsequent liens and encumbrances, including
21 statutory liens, except taxes and assessments levied on said
22 real property.

23 For purposes of this Section, "real property" includes a
24 manufactured home as defined in paragraph (53) of Section 9-102
25 of the Uniform Commercial Code that is real property as defined
26 in Section 40 of the Conveyance and Encumbrance of Manufactured

1 Homes as Real Property Act.

2 (Source: P.A. 83-1539; 83-1380.)

3 (205 ILCS 5/6.1) (from Ch. 17, par. 313.1)

4 Sec. 6.1. Non-recourse reverse mortgage loans.

5 (a) It is the intent of this amendatory Act of 1991 that
6 homeowners at least 62 years of age be permitted to meet their
7 financial needs by accessing the equity in their homes through
8 a reverse mortgage. The General Assembly recognizes that many
9 restrictions and requirements that exist to govern traditional
10 mortgage transactions are inapplicable in the context of
11 reverse mortgages. In order to foster reverse mortgage
12 transactions and better serve the citizens of this State, this
13 Section authorizes the making of reverse mortgages, and
14 expressly relieves reverse mortgage lenders and borrowers from
15 compliance with inappropriate requirements.

16 As used in this Section, "borrower" means any homeowner who
17 is, or whose spouse is, at least 62 years of age.

18 As used in this Section, "real property" includes a
19 manufactured home as defined in paragraph (53) of Section 9-102
20 of the Uniform Commercial Code that is real property as defined
21 in Section 40 of the Conveyance and Encumbrance of Manufactured
22 Homes as Real Property Act.

23 As used in this Section, "reverse mortgage" means a
24 non-recourse loan, secured by real property, that complies with
25 all of the following:

1 (1) Provides cash advances to a borrower based on the
2 equity in a borrower's owner-occupied principal residence,
3 provided that it is a residence designed to be occupied by
4 not more than 4 families.

5 (2) Requires no payment of principal or interest until
6 the entire loan becomes due and payable.

7 (b) Reverse mortgage loans shall be subject only to all of
8 the following provisions:

9 (1) Payment, in whole or in part, shall be permitted
10 without penalty at any time during the term of the
11 mortgage.

12 (2) A reverse mortgage may provide for an interest rate
13 that is fixed or adjustable and may provide for interest
14 that is contingent on appreciation in the value of the
15 property.

16 (3) If a reverse mortgage provides for periodic
17 advances to a borrower, the advances may not be reduced in
18 amount or number based on any adjustment in the interest
19 rate.

20 (4) A reverse mortgage may be subject to any additional
21 terms and conditions imposed by a lender that are required
22 under the provisions of the federal Housing and Community
23 Development Act of 1987 to enable the lender to obtain
24 federal government insurance on the mortgage if the loans
25 are to be insured under that Act.

26 (c) The repayment obligation under a reverse mortgage is

1 subject to all of the following:

2 (1) Temporary absences from the home not exceeding 60
3 consecutive days shall not cause the mortgage to become due
4 and payable.

5 (2) Temporary absences from the home exceeding 60 days,
6 but not exceeding one year shall not cause the mortgage to
7 become due and payable, provided that the borrower has
8 taken action that secures the home in a manner satisfactory
9 to the lender.

10 (3) The lender must disclose any interest or other fees
11 to be charged during the period that commences on the date
12 the mortgage becomes due and payable and ends when
13 repayment in full is made in accordance with applicable
14 State and federal laws, rules, and regulations.

15 (d) A reverse mortgage shall become due and payable upon
16 the occurrence of any of the following events:

17 (1) The real property securing the loan is sold.

18 (2) All borrowers cease to occupy the home as a
19 principal residence.

20 (3) A fixed maturity date agreed to by the lender and
21 the borrower is reached.

22 (4) An event that is specified in the loan documents
23 and that jeopardizes the lender's security occurs.

24 (e) No reverse mortgage commitment may be made by a lender
25 unless the loan applicant attests, in writing, that the
26 applicant has received from the lender, at the time of initial

1 inquiry, a statement prepared by the Department on Aging
2 regarding the advisability and availability of independent
3 information and counseling services on reverse mortgages.

4 (Source: P.A. 87-488.)

5 Section 75. The Illinois Savings and Loan Act of 1985 is
6 amended by changing Sections 1-10.30 and 5-2 as follows:

7 (205 ILCS 105/1-10.30) (from Ch. 17, par. 3301-10.30)

8 Sec. 1-10.30. "Real property": the interests, benefits,
9 and rights inherent in the ownership of the physical real
10 estate. It is the rights with which the ownership of real
11 estate is endowed. Real property includes a manufactured home
12 as defined in paragraph (53) of Section 9-102 of the Uniform
13 Commercial Code that is real property as defined in Section 40
14 of the Conveyance and Encumbrance of Manufactured Homes as Real
15 Property Act. For purposes of this Act, the term "Real Estate"
16 is synonymous with "Real Property".

17 (Source: P.A. 84-543.)

18 (205 ILCS 105/5-2) (from Ch. 17, par. 3305-2)

19 Sec. 5-2. Investment in loans. An association may loan
20 funds to members as follows:

21 (a) On the security of withdrawable capital accounts, but
22 no such loan shall exceed the withdrawal value of the pledged
23 account;

1 (b) On the security of real estate:

2 (1) Of a value, determined in accordance with Section 5-12
3 of this Act, sufficient to provide good and ample security for
4 the loan;

5 (2) With a fee simple title or a leasehold title of not
6 less duration than 10 years beyond the maturity of the loan;

7 (3) With the title established by such evidence of title as
8 is consistent with sound lending practices in the locality;

9 (4) With the security interest in such real estate
10 evidenced by an appropriate written instrument and the loan
11 evidenced by a note, bond or similar written instrument. A loan
12 on the security of the whole of the beneficial interest in a
13 land trust satisfies the requirements of this paragraph if the
14 title to the land is held by a corporate trustee and if the
15 real estate held in the land trust meets the other requirements
16 of this subsection; and

17 (5) With a mortgage loan not to exceed 40 years;

18 (c) For the purpose of repair, improvement,
19 rehabilitation, furnishing or equipment of real estate or any
20 other purpose;

21 (d) For the purpose of financing or refinancing an existing
22 ownership interest in certificates of stock, certificates of
23 beneficial interest or other evidence of an ownership interest
24 in, and a proprietary lease from, a corporation, trust or
25 partnership formed for the purpose of the cooperative ownership
26 of real estate, secured by the assignment or transfer of such

1 certificates or other evidence of ownership of the borrower;

2 (e) Through the purchase of loans which at the time of
3 purchase the association could make in accordance with this
4 Section and the by-laws;

5 (f) Through the purchase of installment contracts for the
6 sale of real estate, and title thereto which is subject to such
7 contracts, but in each instance only if the association at the
8 time of purchase could make a mortgage loan of the same amount
9 and for the same length of time on the security of such real
10 estate;

11 (g) Through loans guaranteed or insured, wholly or in part
12 by the United States or any of its instrumentalities, and
13 without regard to the limits in amount and terms otherwise
14 imposed by this Article;

15 (h) Through secured or unsecured loans for business,
16 corporate, personal, family, or household purposes, or for
17 secured or unsecured loans for agricultural or commercial
18 purposes to the same extent that such agricultural or
19 commercial loans are authorized by federal law for any savings
20 and loan association organized under federal law and authorized
21 to do business in this State, except that loans to service
22 corporations shall not be subject to the limitations of this
23 paragraph;

24 (i) For the purpose of financing a manufactured home ~~mobile~~
25 ~~home financing~~ subject, however, to the regulation of the
26 Commissioner. As used in this Section, "manufactured home"

1 means a manufactured home as defined in paragraph (53) of
2 Section 9-102 of the Uniform Commercial Code;

3 (j) Through loans to its members secured by the cash
4 surrender value of any life insurance policy or any collateral
5 which would be a legal investment if made by such association
6 pursuant to the terms of this Act; and

7 (k) Any provision of this Act to the contrary
8 notwithstanding, any association may make any loan to its
9 members or investment which such association could make if it
10 were incorporated and operating as an association organized
11 under the laws of the United States.

12 (Source: P.A. 86-137.)

13 Section 80. The Savings Bank Act is amended by changing
14 Sections 6002 and 6008 as follows:

15 (205 ILCS 205/6002) (from Ch. 17, par. 7306-2)

16 Sec. 6002. Investment in loans.

17 (a) Subject to the regulations of the Commissioner, a
18 savings bank may loan funds as follows:

19 (1) On the security of deposit accounts, but no such
20 loan shall exceed the withdrawal value of the pledged
21 account.

22 (2) On the security of real estate:

23 (A) of a value, determined in accordance with this
24 Act, sufficient to provide good and ample security for

1 the loan;

2 (B) with a fee simple title or a leasehold title;

3 (C) with the title established by evidence of title
4 as is consistent with sound lending practices in the
5 locality;

6 (D) with the security interest in the real estate
7 evidenced by an appropriate written instrument and the
8 loan evidenced by a note, bond, or similar written
9 instrument; a loan on the security of the whole of the
10 beneficial interest in a land trust satisfies the
11 requirements of this paragraph if the title to the land
12 is held by a corporate trustee and if the real estate
13 held in the land trust meets the other requirements of
14 this subsection;

15 (E) with a mortgage loan not to exceed 40 years.

16 (3) For the purpose of repair, improvement,
17 rehabilitation, furnishing, or equipment of real estate.

18 (4) For the purpose of financing or refinancing an
19 existing ownership interest in certificates of stock,
20 certificates of beneficial interest, other evidence of an
21 ownership interest in, or a proprietary lease from a
22 corporation, trust, or partnership formed for the purpose
23 of the cooperative ownership of real estate, secured by the
24 assignment or transfer of certificates or other evidence of
25 ownership of the borrower.

26 (5) Through the purchase of loans that, at the time of

1 purchase, the savings bank could make in accordance with
2 this Section and the bylaws.

3 (6) Through the purchase of installment contracts for
4 the sale of real estate and title thereto that is subject
5 to the contracts, but in each instance only if the savings
6 bank, at the time of purchase, could make a mortgage loan
7 of the same amount and for the same length of time on the
8 security of the real estate.

9 (7) Through loans guaranteed or insured, wholly or in
10 part, by the United States or any of its instrumentalities.

11 (8) Subject to regulations adopted by the
12 Commissioner, through secured or unsecured loans for
13 business, corporate, commercial, or agricultural purposes;
14 provided that the total of all loans granted under this
15 paragraph shall not exceed 15% of the savings bank's total
16 assets unless a greater amount is authorized in writing by
17 the Commissioner.

18 (9) For the purpose of financing a manufactured home
19 ~~mobile home financing~~ subject, however, to the regulation
20 of the Commissioner. As used in this Section, "manufactured
21 home" means a manufactured home as defined in paragraph
22 (53) of Section 9-102 of the Uniform Commercial Code.

23 (10) Through loans secured by the cash surrender value
24 of any life insurance policy or any collateral that would
25 be a legal investment under the terms of this Act if made
26 by the savings bank.

1 (11) Any provision of this Act or any other law, except
2 for paragraph (18) of Section 6003, to the contrary
3 notwithstanding, but subject to the Financial Institutions
4 Insurance Sales Law and subject to the Commissioner's
5 regulations, any savings bank may make any loan or
6 investment or engage in any activity that it could make or
7 engage in if it were organized under State law as a savings
8 and loan association or under federal law as a federal
9 savings and loan association or federal savings bank.

10 (12) A savings bank may issue letters of credit or
11 other similar arrangements only as provided for by
12 regulation of the Commissioner with regard to aggregate
13 amounts permitted, take out commitments for stand-by
14 letters of credit, underlying documentation and
15 underwriting, legal limitations on loans of the savings
16 bank, control and subsidiary records, and other procedures
17 deemed necessary by the Commissioner.

18 (13) For the purpose of automobile financing, subject
19 to the regulation of the Commissioner.

20 (14) For the purpose of financing primary, secondary,
21 undergraduate, or postgraduate education.

22 (15) Through revolving lines of credit on the security
23 of a first or junior lien on the borrower's personal
24 residence, based primarily on the borrower's equity, the
25 proceeds of which may be used for any purpose; those loans
26 being commonly referred to as home equity loans.

1 (16) As secured or unsecured credit to cover the
2 payment of checks, drafts, or other funds transfer orders
3 in excess of the available balance of an account on which
4 they are drawn, subject to the regulations of the
5 Commissioner.

6 (b) For purposes of this Section, "real estate" includes a
7 manufactured home as defined in paragraph (53) of Section 9-102
8 of the Uniform Commercial Code that is real property as defined
9 in Section 40 of the Conveyance and Encumbrance of Manufactured
10 Homes as Real Property Act.

11 (Source: P.A. 90-301, eff. 8-1-97; 91-97, eff. 7-9-99.)

12 (205 ILCS 205/6008) (from Ch. 17, par. 7306-8)

13 Sec. 6008. Purchase of real estate at forced sale. A
14 savings bank may purchase at any sheriff's or other judicial
15 sale, either public or private, any real estate upon which the
16 savings bank has any mortgage, lien or other encumbrance, or in
17 which the savings bank has any other interest. The savings bank
18 thereafter may repair, insure, improve, sell, convey, lease,
19 preserve, mortgage, exchange, or otherwise dispose of real
20 estate so acquired in the best interests of the savings bank.
21 For purposes of this Section, "real estate" includes a
22 manufactured home as defined in paragraph (53) of Section 9-102
23 of the Uniform Commercial Code that is real property as defined
24 in Section 40 of the Conveyance and Encumbrance of Manufactured
25 Homes as Real Property Act.

1 (Source: P.A. 86-1213.)

2 Section 85. The Illinois Credit Union Act is amended by
3 changing Sections 46 and 46.1 as follows:

4 (205 ILCS 305/46) (from Ch. 17, par. 4447)

5 Sec. 46. Loans and interest rate.

6 (1) A credit union may make loans to its members for such
7 purpose and upon such security and terms, including rates of
8 interest, as the Credit Committee, credit manager, or loan
9 officer approves. Notwithstanding the provisions of any other
10 law in connection with extensions of credit, a credit union may
11 elect to contract for and receive interest and fees and other
12 charges for extensions of credit subject only to the provisions
13 of this Act and rules promulgated under this Act, except that
14 extensions of credit secured by residential real estate shall
15 be subject to the laws applicable thereto. The rates of
16 interest to be charged on loans to members shall be set by the
17 Board of Directors of each individual credit union in
18 accordance with Section 30 of this Act and such rates may be
19 less than, but may not exceed, the maximum rate set forth in
20 this Section. A borrower may repay his loan prior to maturity,
21 in whole or in part, without penalty. The credit contract may
22 provide for the payment by the member and receipt by the credit
23 union of all costs and disbursements, including reasonable
24 attorney's fees and collection agency charges, incurred by the

1 credit union to collect or enforce the debt in the event of a
2 delinquency by the member, or in the event of a breach of any
3 obligation of the member under the credit contract. A
4 contingency or hourly arrangement established under an
5 agreement entered into by a credit union with an attorney or
6 collection agency to collect a loan of a member in default
7 shall be presumed prima facie reasonable.

8 (2) Credit unions may make loans based upon the security of
9 any interest or equity in real estate, subject to rules and
10 regulations promulgated by the Director. In any contract or
11 loan which is secured by a mortgage, deed of trust, or
12 conveyance in the nature of a mortgage, on residential real
13 estate, the interest which is computed, calculated, charged, or
14 collected pursuant to such contract or loan, or pursuant to any
15 regulation or rule promulgated pursuant to this Act, may not be
16 computed, calculated, charged or collected for any period of
17 time occurring after the date on which the total indebtedness,
18 with the exception of late payment penalties, is paid in full.

19 For purposes of this subsection (2) of this Section 46, a
20 prepayment shall mean the payment of the total indebtedness,
21 with the exception of late payment penalties if incurred or
22 charged, on any date before the date specified in the contract
23 or loan agreement on which the total indebtedness shall be paid
24 in full, or before the date on which all payments, if timely
25 made, shall have been made. In the event of a prepayment of the
26 indebtedness which is made on a date after the date on which

1 interest on the indebtedness was last computed, calculated,
2 charged, or collected but before the next date on which
3 interest on the indebtedness was to be calculated, computed,
4 charged, or collected, the lender may calculate, charge and
5 collect interest on the indebtedness for the period which
6 elapsed between the date on which the prepayment is made and
7 the date on which interest on the indebtedness was last
8 computed, calculated, charged or collected at a rate equal to
9 1/360 of the annual rate for each day which so elapsed, which
10 rate shall be applied to the indebtedness outstanding as of the
11 date of prepayment. The lender shall refund to the borrower any
12 interest charged or collected which exceeds that which the
13 lender may charge or collect pursuant to the preceding
14 sentence. The provisions of this amendatory Act of 1985 shall
15 apply only to contracts or loans entered into on or after the
16 effective date of this amendatory Act.

17 (3) Notwithstanding any other provision of this Act, a
18 credit union authorized under this Act to make loans secured by
19 an interest or equity in real estate may engage in making
20 "reverse mortgage" loans to persons for the purpose of making
21 home improvements or repairs, paying insurance premiums or
22 paying real estate taxes on the homestead properties of such
23 persons. If made, such loans shall be made on such terms and
24 conditions as the credit union shall determine and as shall be
25 consistent with the provisions of this Section and such rules
26 and regulations as the Director shall promulgate hereunder. For

1 purposes of this Section, a "reverse mortgage" loan shall be a
2 loan extended on the basis of existing equity in homestead
3 property and secured by a mortgage on such property. Such loans
4 shall be repaid upon the sale of the property or upon the death
5 of the owner or, if the property is in joint tenancy, upon the
6 death of the last surviving joint tenant who had such an
7 interest in the property at the time the loan was initiated,
8 provided, however, that the credit union and its member may by
9 mutual agreement, establish other repayment terms. A credit
10 union, in making a "reverse mortgage" loan, may add deferred
11 interest to principal or otherwise provide for the charging of
12 interest or premiums on such deferred interest. "Homestead"
13 property, for purposes of this Section, means the domicile and
14 contiguous real estate owned and occupied by the mortgagor. The
15 Director shall promulgate rules and regulations under this
16 Section; provided that such rules and regulations need not be
17 promulgated jointly with any other administrative agency of
18 this State.

19 (4) Notwithstanding any other provisions of this Act, a
20 credit union authorized under this Act to make loans secured by
21 an interest or equity in real property may engage in making
22 revolving credit loans secured by mortgages or deeds of trust
23 on such real property or by security assignments of beneficial
24 interests in land trusts.

25 For purposes of this Section, "revolving credit" has the
26 meaning defined in Section 4.1 of the Interest Act.

1 Any mortgage or deed of trust given to secure a revolving
2 credit loan may, and when so expressed therein shall, secure
3 not only the existing indebtedness but also such future
4 advances, whether such advances are obligatory or to be made at
5 the option of the lender, or otherwise, as are made within
6 twenty years from the date thereof, to the same extent as if
7 such future advances were made on the date of the execution of
8 such mortgage or deed of trust, although there may be no
9 advance made at the time of execution of such mortgage or other
10 instrument, and although there may be no indebtedness
11 outstanding at the time any advance is made. The lien of such
12 mortgage or deed of trust, as to third persons without actual
13 notice thereof, shall be valid as to all such indebtedness and
14 future advances from the time said mortgage or deed of trust is
15 filed for record in the office of the Recorder of Deeds or the
16 Registrar of Titles of the county where the real property
17 described therein is located. The total amount of indebtedness
18 that may be so secured may increase or decrease from time to
19 time, but the total unpaid balance so secured at any one time
20 shall not exceed a maximum principal amount which must be
21 specified in such mortgage or deed of trust, plus interest
22 thereon, and any disbursements made for the payment of taxes,
23 special assessments, or insurance on said real property, with
24 interest on such disbursements.

25 Any such mortgage or deed of trust shall be valid and have
26 priority over all subsequent liens and encumbrances, including

1 statutory liens, except taxes and assessments levied on said
2 real property.

3 (4.1) For purposes of this Section, "real estate" and "real
4 property" include a manufactured home as defined in paragraph
5 (53) of Section 9-102 of the Uniform Commercial Code that is
6 real property as defined in Section 40 of the Conveyance and
7 Encumbrance of Manufactured Homes as Real Property Act.

8 (5) Compliance with federal or Illinois preemptive laws or
9 regulations governing loans made by a credit union chartered
10 under this Act shall constitute compliance with this Act.

11 (6) Credit unions may make residential real estate mortgage
12 loans on terms and conditions established by the United States
13 Department of Agriculture through its Rural Development
14 Housing and Community Facilities Program. The portion of any
15 loan in excess of the appraised value of the real estate shall
16 be allocable only to the guarantee fee required under the
17 program.

18 (Source: P.A. 95-98, eff. 8-13-07; 96-141, eff. 8-7-09.)

19 (205 ILCS 305/46.1) (from Ch. 17, par. 4447.1)

20 Sec. 46.1. Non-recourse reverse mortgage loans. Any credit
21 union authorized under this Act to make loans secured by an
22 interest or equity in real estate may make non-recourse reverse
23 mortgage loans as provided in Section 6.1 of the Illinois
24 Banking Act.

25 For purposes of this Section, "real estate" includes a

1 manufactured home as defined in paragraph (53) of Section 9-102
2 of the Uniform Commercial Code that is real property as defined
3 in Section 40 of the Conveyance and Encumbrance of Manufactured
4 Homes as Real Property Act.

5 (Source: P.A. 87-488.)

6 Section 90. The Residential Mortgage License Act of 1987 is
7 amended by changing Section 1-4 as follows:

8 (205 ILCS 635/1-4)

9 Sec. 1-4. Definitions.

10 (a) "Residential real property" or "residential real
11 estate" shall mean any real property located in Illinois, upon
12 which is constructed or intended to be constructed a dwelling.
13 The term includes a manufactured home as defined in paragraph
14 (53) of Section 9-102 of the Uniform Commercial Code that is
15 real property as defined in Section 40 of the Conveyance and
16 Encumbrance of Manufactured Homes as Real Property Act.

17 (b) "Making a residential mortgage loan" or "funding a
18 residential mortgage loan" shall mean for compensation or gain,
19 either directly or indirectly, advancing funds or making a
20 commitment to advance funds to a loan applicant for a
21 residential mortgage loan.

22 (c) "Soliciting, processing, placing, or negotiating a
23 residential mortgage loan" shall mean for compensation or gain,
24 either directly or indirectly, accepting or offering to accept

1 an application for a residential mortgage loan, assisting or
2 offering to assist in the processing of an application for a
3 residential mortgage loan on behalf of a borrower, or
4 negotiating or offering to negotiate the terms or conditions of
5 a residential mortgage loan with a lender on behalf of a
6 borrower including, but not limited to, the submission of
7 credit packages for the approval of lenders, the preparation of
8 residential mortgage loan closing documents, including a
9 closing in the name of a broker.

10 (d) "Exempt person or entity" shall mean the following:

11 (1) (i) Any banking organization or foreign banking
12 corporation licensed by the Illinois Commissioner of Banks
13 and Real Estate or the United States Comptroller of the
14 Currency to transact business in this State; (ii) any
15 national bank, federally chartered savings and loan
16 association, federal savings bank, federal credit union;
17 (iii) any pension trust, bank trust, or bank trust company;
18 (iv) any bank, savings and loan association, savings bank,
19 or credit union organized under the laws of this or any
20 other state; (v) any Illinois Consumer Installment Loan Act
21 licensee; (vi) any insurance company authorized to
22 transact business in this State; (vii) any entity engaged
23 solely in commercial mortgage lending; (viii) any service
24 corporation of a savings and loan association or savings
25 bank organized under the laws of this State or the service
26 corporation of a federally chartered savings and loan

1 association or savings bank having its principal place of
2 business in this State, other than a service corporation
3 licensed or entitled to reciprocity under the Real Estate
4 License Act of 2000; or (ix) any first tier subsidiary of a
5 bank, the charter of which is issued under the Illinois
6 Banking Act by the Illinois Commissioner of Banks and Real
7 Estate, or the first tier subsidiary of a bank chartered by
8 the United States Comptroller of the Currency and that has
9 its principal place of business in this State, provided
10 that the first tier subsidiary is regularly examined by the
11 Illinois Commissioner of Banks and Real Estate or the
12 Comptroller of the Currency, or a consumer compliance
13 examination is regularly conducted by the Federal Reserve
14 Board.

15 (1.5) Any employee of a person or entity mentioned in
16 item (1) of this subsection, when acting for such person or
17 entity, or any registered mortgage loan originator when
18 acting for an entity described in subsection (tt) of this
19 Section.

20 (2) Any person or entity that does not originate
21 mortgage loans in the ordinary course of business making or
22 acquiring residential mortgage loans with his or her or its
23 own funds for his or her or its own investment without
24 intent to make, acquire, or resell more than 2 residential
25 mortgage loans in any one calendar year.

26 (3) Any person employed by a licensee to assist in the

1 performance of the activities regulated by this Act who is
2 compensated in any manner by only one licensee.

3 (4) (Blank).

4 (5) Any individual, corporation, partnership, or other
5 entity that originates, services, or brokers residential
6 mortgage loans, as these activities are defined in this
7 Act, and who or which receives no compensation for those
8 activities, subject to the Commissioner's regulations with
9 regard to the nature and amount of compensation.

10 (6) (Blank).

11 (e) "Licensee" or "residential mortgage licensee" shall
12 mean a person, partnership, association, corporation, or any
13 other entity who or which is licensed pursuant to this Act to
14 engage in the activities regulated by this Act.

15 (f) "Mortgage loan" "residential mortgage loan" or "home
16 mortgage loan" shall mean any loan primarily for personal,
17 family, or household use that is secured by a mortgage, deed of
18 trust, or other equivalent consensual security interest on a
19 dwelling as defined in Section 103(v) of the federal Truth in
20 Lending Act, or residential real estate upon which is
21 constructed or intended to be constructed a dwelling.

22 (g) "Lender" shall mean any person, partnership,
23 association, corporation, or any other entity who either lends
24 or invests money in residential mortgage loans.

25 (h) "Ultimate equitable owner" shall mean a person who,
26 directly or indirectly, owns or controls an ownership interest

1 in a corporation, foreign corporation, alien business
2 organization, trust, or any other form of business organization
3 regardless of whether the person owns or controls the ownership
4 interest through one or more persons or one or more proxies,
5 powers of attorney, nominees, corporations, associations,
6 partnerships, trusts, joint stock companies, or other entities
7 or devices, or any combination thereof.

8 (i) "Residential mortgage financing transaction" shall
9 mean the negotiation, acquisition, sale, or arrangement for or
10 the offer to negotiate, acquire, sell, or arrange for, a
11 residential mortgage loan or residential mortgage loan
12 commitment.

13 (j) "Personal residence address" shall mean a street
14 address and shall not include a post office box number.

15 (k) "Residential mortgage loan commitment" shall mean a
16 contract for residential mortgage loan financing.

17 (l) "Party to a residential mortgage financing
18 transaction" shall mean a borrower, lender, or loan broker in a
19 residential mortgage financing transaction.

20 (m) "Payments" shall mean payment of all or any of the
21 following: principal, interest and escrow reserves for taxes,
22 insurance and other related reserves, and reimbursement for
23 lender advances.

24 (n) "Commissioner" shall mean the Commissioner of Banks and
25 Real Estate, except that, beginning on April 6, 2009 (the
26 effective date of Public Act 95-1047) ~~this amendatory Act of~~

1 ~~the 95th General Assembly~~, all references in this Act to the
2 Commissioner of Banks and Real Estate are deemed, in
3 appropriate contexts, to be references to the Secretary of
4 Financial and Professional Regulation, or his or her designee,
5 including the Director of the Division of Banking of the
6 Department of Financial and Professional Regulation.

7 (n-1) "Director" shall mean the Director of the Division of
8 Banking of the Department of Financial and Professional
9 Regulation, except that, beginning on July 31, 2009 (the
10 effective date of Public Act 96-112) ~~this amendatory Act of the~~
11 ~~96th General Assembly~~, all references in this Act to the
12 Director are deemed, in appropriate contexts, to be the
13 Secretary of Financial and Professional Regulation, or his or
14 her designee, including the Director of the Division of Banking
15 of the Department of Financial and Professional Regulation.

16 (o) "Loan brokering", "brokering", or "brokerage service"
17 shall mean the act of helping to obtain from another entity,
18 for a borrower, a loan secured by residential real estate
19 situated in Illinois or assisting a borrower in obtaining a
20 loan secured by residential real estate situated in Illinois in
21 return for consideration to be paid by either the borrower or
22 the lender including, but not limited to, contracting for the
23 delivery of residential mortgage loans to a third party lender
24 and soliciting, processing, placing, or negotiating
25 residential mortgage loans.

26 (p) "Loan broker" or "broker" shall mean a person,

1 partnership, association, corporation, or limited liability
2 company, other than those persons, partnerships, associations,
3 corporations, or limited liability companies exempted from
4 licensing pursuant to Section 1-4, subsection (d), of this Act,
5 who performs the activities described in subsections (c) and
6 (o) of this Section.

7 (q) "Servicing" shall mean the collection or remittance for
8 or the right or obligation to collect or remit for any lender,
9 noteowner, noteholder, or for a licensee's own account, of
10 payments, interests, principal, and trust items such as hazard
11 insurance and taxes on a residential mortgage loan in
12 accordance with the terms of the residential mortgage loan; and
13 includes loan payment follow-up, delinquency loan follow-up,
14 loan analysis and any notifications to the borrower that are
15 necessary to enable the borrower to keep the loan current and
16 in good standing.

17 (r) "Full service office" shall mean an office, provided by
18 the licensee and not subleased from the licensee's employees,
19 and staff in Illinois reasonably adequate to handle efficiently
20 communications, questions, and other matters relating to any
21 application for, or an existing home mortgage secured by
22 residential real estate situated in Illinois with respect to
23 which the licensee is brokering, funding originating,
24 purchasing, or servicing. The management and operation of each
25 full service office must include observance of good business
26 practices such as adequate, organized, and accurate books and

1 records; ample phone lines, hours of business, staff training
2 and supervision, and provision for a mechanism to resolve
3 consumer inquiries, complaints, and problems. The Commissioner
4 shall issue regulations with regard to these requirements and
5 shall include an evaluation of compliance with this Section in
6 his or her periodic examination of each licensee.

7 (s) "Purchasing" shall mean the purchase of conventional or
8 government-insured mortgage loans secured by residential real
9 estate situated in Illinois from either the lender or from the
10 secondary market.

11 (t) "Borrower" shall mean the person or persons who seek
12 the services of a loan broker, originator, or lender.

13 (u) "Originating" shall mean the issuing of commitments for
14 and funding of residential mortgage loans.

15 (v) "Loan brokerage agreement" shall mean a written
16 agreement in which a broker or loan broker agrees to do either
17 of the following:

18 (1) obtain a residential mortgage loan for the borrower
19 or assist the borrower in obtaining a residential mortgage
20 loan; or

21 (2) consider making a residential mortgage loan to the
22 borrower.

23 (w) "Advertisement" shall mean the attempt by publication,
24 dissemination, or circulation to induce, directly or
25 indirectly, any person to enter into a residential mortgage
26 loan agreement or residential mortgage loan brokerage

1 agreement relative to a mortgage secured by residential real
2 estate situated in Illinois.

3 (x) "Residential Mortgage Board" shall mean the
4 Residential Mortgage Board created in Section 1-5 of this Act.

5 (y) "Government-insured mortgage loan" shall mean any
6 mortgage loan made on the security of residential real estate
7 insured by the Department of Housing and Urban Development or
8 Farmers Home Loan Administration, or guaranteed by the Veterans
9 Administration.

10 (z) "Annual audit" shall mean a certified audit of the
11 licensee's books and records and systems of internal control
12 performed by a certified public accountant in accordance with
13 generally accepted accounting principles and generally
14 accepted auditing standards.

15 (aa) "Financial institution" shall mean a savings and loan
16 association, savings bank, credit union, or a bank organized
17 under the laws of Illinois or a savings and loan association,
18 savings bank, credit union or a bank organized under the laws
19 of the United States and headquartered in Illinois.

20 (bb) "Escrow agent" shall mean a third party, individual or
21 entity charged with the fiduciary obligation for holding escrow
22 funds on a residential mortgage loan pending final payout of
23 those funds in accordance with the terms of the residential
24 mortgage loan.

25 (cc) "Net worth" shall have the meaning ascribed thereto in
26 Section 3-5 of this Act.

1 (dd) "Affiliate" shall mean:

2 (1) any entity that directly controls or is controlled
3 by the licensee and any other company that is directly
4 affecting activities regulated by this Act that is
5 controlled by the company that controls the licensee;

6 (2) any entity:

7 (A) that is controlled, directly or indirectly, by
8 a trust or otherwise, by or for the benefit of
9 shareholders who beneficially or otherwise control,
10 directly or indirectly, by trust or otherwise, the
11 licensee or any company that controls the licensee; or

12 (B) a majority of the directors or trustees of
13 which constitute a majority of the persons holding any
14 such office with the licensee or any company that
15 controls the licensee;

16 (3) any company, including a real estate investment
17 trust, that is sponsored and advised on a contractual basis
18 by the licensee or any subsidiary or affiliate of the
19 licensee.

20 The Commissioner may define by rule and regulation any
21 terms used in this Act for the efficient and clear
22 administration of this Act.

23 (ee) "First tier subsidiary" shall be defined by regulation
24 incorporating the comparable definitions used by the Office of
25 the Comptroller of the Currency and the Illinois Commissioner
26 of Banks and Real Estate.

1 (ff) "Gross delinquency rate" means the quotient
2 determined by dividing (1) the sum of (i) the number of
3 government-insured residential mortgage loans funded or
4 purchased by a licensee in the preceding calendar year that are
5 delinquent and (ii) the number of conventional residential
6 mortgage loans funded or purchased by the licensee in the
7 preceding calendar year that are delinquent by (2) the sum of
8 (i) the number of government-insured residential mortgage
9 loans funded or purchased by the licensee in the preceding
10 calendar year and (ii) the number of conventional residential
11 mortgage loans funded or purchased by the licensee in the
12 preceding calendar year.

13 (gg) "Delinquency rate factor" means the factor set by rule
14 of the Commissioner that is multiplied by the average gross
15 delinquency rate of licensees, determined annually for the
16 immediately preceding calendar year, for the purpose of
17 determining which licensees shall be examined by the
18 Commissioner pursuant to subsection (b) of Section 4-8 of this
19 Act.

20 (hh) "Loan originator" means any natural person who, for
21 compensation or in the expectation of compensation, either
22 directly or indirectly makes, offers to make, solicits, places,
23 or negotiates a residential mortgage loan. This definition
24 applies only to Section 7-1 of this Act.

25 (ii) "Confidential supervisory information" means any
26 report of examination, visitation, or investigation prepared

1 by the Commissioner under this Act, any report of examination
2 visitation, or investigation prepared by the state regulatory
3 authority of another state that examines a licensee, any
4 document or record prepared or obtained in connection with or
5 relating to any examination, visitation, or investigation, and
6 any record prepared or obtained by the Commissioner to the
7 extent that the record summarizes or contains information
8 derived from any report, document, or record described in this
9 subsection. "Confidential supervisory information" does not
10 include any information or record routinely prepared by a
11 licensee and maintained in the ordinary course of business or
12 any information or record that is required to be made publicly
13 available pursuant to State or federal law or rule.

14 (jj) "Mortgage loan originator" means an individual who for
15 compensation or gain or in the expectation of compensation or
16 gain:

17 (i) takes a residential mortgage loan application; or

18 (ii) offers or negotiates terms of a residential
19 mortgage loan.

20 "Mortgage loan originator" does not include an individual
21 engaged solely as a loan processor or underwriter except as
22 otherwise provided in subsection (d) of Section 7-1A of this
23 Act.

24 "Mortgage loan originator" does not include a person or
25 entity that only performs real estate brokerage activities and
26 is licensed in accordance with the Real Estate License Act of

1 2000, unless the person or entity is compensated by a lender, a
2 mortgage broker, or other mortgage loan originator, or by any
3 agent of that lender, mortgage broker, or other mortgage loan
4 originator.

5 "Mortgage loan originator" does not include a person or
6 entity solely involved in extensions of credit relating to
7 timeshare plans, as that term is defined in Section 101(53D) of
8 Title 11, United States Code.

9 (kk) "Depository institution" has the same meaning as in
10 Section 3 of the Federal Deposit Insurance Act, and includes
11 any credit union.

12 (ll) "Dwelling" means a residential structure or mobile
13 home which contains one to 4 family housing units, or
14 individual units of condominiums or cooperatives.

15 (mm) "Immediate family member" means a spouse, child,
16 sibling, parent, grandparent, or grandchild, and includes
17 step-parents, step-children, step-siblings, or adoptive
18 relationships.

19 (nn) "Individual" means a natural person.

20 (oo) "Loan processor or underwriter" means an individual
21 who performs clerical or support duties as an employee at the
22 direction of and subject to the supervision and instruction of
23 a person licensed, or exempt from licensing, under this Act.
24 "Clerical or support duties" includes subsequent to the receipt
25 of an application:

26 (i) the receipt, collection, distribution, and

1 analysis of information common for the processing or
2 underwriting of a residential mortgage loan; and

3 (ii) communicating with a consumer to obtain the
4 information necessary for the processing or underwriting
5 of a loan, to the extent that the communication does not
6 include offering or negotiating loan rates or terms, or
7 counseling consumers about residential mortgage loan rates
8 or terms. An individual engaging solely in loan processor
9 or underwriter activities shall not represent to the
10 public, through advertising or other means of
11 communicating or providing information, including the use
12 of business cards, stationery, brochures, signs, rate
13 lists, or other promotional items, that the individual can
14 or will perform any of the activities of a mortgage loan
15 originator.

16 (pp) "Nationwide Mortgage Licensing System and Registry"
17 means a mortgage licensing system developed and maintained by
18 the Conference of State Bank Supervisors and the American
19 Association of Residential Mortgage Regulators for the
20 licensing and registration of licensed mortgage loan
21 originators.

22 (qq) "Nontraditional mortgage product" means any mortgage
23 product other than a 30-year fixed rate mortgage.

24 (rr) "Person" means a natural person, corporation,
25 company, limited liability company, partnership, or
26 association.

1 (ss) "Real estate brokerage activity" means any activity
2 that involves offering or providing real estate brokerage
3 services to the public, including:

4 (1) acting as a real estate agent or real estate broker
5 for a buyer, seller, lessor, or lessee of real property;

6 (2) bringing together parties interested in the sale,
7 purchase, lease, rental, or exchange of real property;

8 (3) negotiating, on behalf of any party, any portion of
9 a contract relating to the sale, purchase, lease, rental,
10 or exchange of real property, other than in connection with
11 providing financing with respect to any such transaction;

12 (4) engaging in any activity for which a person engaged
13 in the activity is required to be registered or licensed as
14 a real estate agent or real estate broker under any
15 applicable law; or

16 (5) offering to engage in any activity, or act in any
17 capacity, described in this subsection (ss).

18 (tt) "Registered mortgage loan originator" means any
19 individual that:

20 (1) meets the definition of mortgage loan originator
21 and is an employee of:

22 (A) a depository institution;

23 (B) a subsidiary that is:

24 (i) owned and controlled by a depository
25 institution; and

26 (ii) regulated by a federal banking agency; or

1 (C) an institution regulated by the Farm Credit
2 Administration; and

3 (2) is registered with, and maintains a unique
4 identifier through, the Nationwide Mortgage Licensing
5 System and Registry.

6 (uu) "Unique identifier" means a number or other identifier
7 assigned by protocols established by the Nationwide Mortgage
8 Licensing System and Registry.

9 (vv) "Residential mortgage license" means a license issued
10 pursuant to Section 1-3, 2-2, or 2-6 of this Act.

11 (ww) "Mortgage loan originator license" means a license
12 issued pursuant to Section 7-1A, 7-3, or 7-6 of this Act.

13 (xx) ~~(jj)~~ "Secretary" means the Secretary of the Department
14 of Financial and Professional Regulation, or a person
15 authorized by the Secretary or by this Act to act in the
16 Secretary's stead.

17 (Source: P.A. 95-1047, eff. 4-6-09; 96-112, eff. 7-31-09;
18 revised 8-20-09.)

19 Section 95. The Abandoned Mobile Home Act is amended by
20 changing Section 10 as follows:

21 (210 ILCS 117/10)

22 Sec. 10. Definitions.

23 "Mobile home" means a structure designed for permanent
24 habitation and constructed to permit its transport on wheels,

1 temporarily or permanently attached to its frame, from its
2 place of construction to a location where it is intended to be
3 a permanent habitation and includes a manufactured home as
4 defined in paragraph (53) of Section 9-102 of the Uniform
5 Commercial Code. "Mobile home" does not include a structure
6 that is served by individual utilities and that rests on a
7 permanent foundation with its wheels, tongue, and hitch
8 permanently removed, nor a manufactured home as defined in
9 paragraph (53) of Section 9-102 of the Uniform Commercial Code
10 that is real property as defined in Section 40 of the
11 Conveyance and Encumbrance of Manufactured Homes as Real
12 Property Act.

13 "Abandoned mobile home" means a mobile home that has no
14 owner currently residing in the mobile home or authorized
15 tenant of the owner currently residing in the mobile home to
16 the best knowledge of the municipality; has had its
17 electricity, natural gas, sewer, and water payments declared
18 delinquent by the utility companies that are providing such
19 services; and for which the Mobile Home Privilege Tax, imposed
20 under the Mobile Home Local Services Tax Act, is delinquent for
21 at least 3 months.

22 "Municipality" means any city, village, incorporated town,
23 or its duly authorized agent. If an abandoned mobile home is
24 located in an unincorporated area, the county where the mobile
25 home is located shall have all powers granted to a municipality
26 under this Act.

1 (Source: P.A. 88-516.)

2 Section 100. The Illinois Vehicle Code is amended by
3 changing Sections 3-100, 3-102, 3-103, 3-104, 3-106, 3-107,
4 3-109, 3-110, 3-116, 3-202, 3-205, 3-207, 3-208, 3-626, 3-638,
5 3-645, 3-647, 3-650, and 3-680 and by adding Sections
6 1-145.002, 3-116.1, 3-116.2, and 3-116.3 as follows:

7 (625 ILCS 5/1-145.002 new)

8 Sec. 1-145.002. Mobile home or manufactured home.

9 A "mobile home" or "manufactured home" means a manufactured
10 home as defined in paragraph (53) of Section 9-102 of the
11 Uniform Commercial Code.

12 (625 ILCS 5/3-100) (from Ch. 95 1/2, par. 3-100)

13 Sec. 3-100. Definitions. For the purposes of this Chapter,
14 the following words shall have the meanings ascribed to them:

15 "Electronic" includes electrical, digital, magnetic,
16 optical, electromagnetic, or any other form of technology that
17 entails capabilities similar to these technologies.

18 "Electronic record" means a record generated,
19 communicated, received, or stored by electronic means for use
20 in an information system or for transmission from one
21 information system to another.

22 "Electronic signature" means a signature in electronic
23 form attached to or logically associated with an electronic

1 record.

2 "Owner" means a person who holds legal document of
3 ownership of a vehicle, limited to a certificate of origin,
4 certificate of title, salvage certificate, or junking
5 certificate. However, in the event a vehicle is the subject of
6 an agreement for the conditional sale or lease thereof with the
7 right of purchase upon performance of the conditions stated in
8 the agreement and with an immediate right of possession vested
9 in the conditional vendee or lessee, or in the event a
10 mortgagor of such vehicle is entitled to possession, then such
11 conditional vendee or lessee or mortgagor shall be deemed the
12 owner for the purpose of this Chapter, except as provided under
13 paragraph (c) of Section 3-118.

14 "Record" means information that is inscribed, stored, or
15 otherwise fixed on a tangible medium or that is stored in an
16 electronic or other medium and is retrievable in perceivable
17 form.

18 "Signature" or "signed" includes any symbol executed or
19 adopted, or any security procedure employed or adopted, using
20 electronic means or otherwise, by or on behalf of a person with
21 intent to authenticate a record.

22 "Vehicle" means a vehicle as defined in Section 1-217 of
23 this Code. Unless otherwise specified, "vehicle" also means a
24 manufactured home as defined in Section 1-145.002 of this Code.

25 (Source: P.A. 91-79, eff. 1-1-00; 91-357, eff. 7-29-99; 91-772,
26 eff. 1-1-01.)

1 (625 ILCS 5/3-102) (from Ch. 95 1/2, par. 3-102)

2 Sec. 3-102. Exclusions.

3 No certificate of title need be obtained for:

4 1. A vehicle owned by the State of Illinois; or a vehicle
5 owned by the United States unless it is registered in this
6 State;

7 2. A vehicle owned by a manufacturer or dealer and held for
8 sale, even though incidentally moved on the highway or used for
9 purposes of testing or demonstration, provided a dealer
10 reassignment area is still available on the manufacturer's
11 certificate of origin or the Illinois title; or a vehicle used
12 by a manufacturer solely for testing;

13 3. A vehicle owned by a non-resident of this State and not
14 required by law to be registered in this State;

15 4. A motor vehicle regularly engaged in the interstate
16 transportation of persons or property for which a currently
17 effective certificate of title has been issued in another
18 State;

19 5. A vehicle moved solely by animal power;

20 6. An implement of husbandry;

21 7. Special mobile equipment;

22 8. An apportionable trailer or an apportionable
23 semitrailer registered in the State prior to April 1, 1998; and

24 9. A manufactured home for which an affidavit of affixation
25 has been recorded pursuant to the Conveyance and Encumbrance of

1 Manufactured Homes as Real Property Act, unless an affidavit of
2 severance has been recorded for the same manufactured home
3 pursuant to Section 55 of the Conveyance and Encumbrance of
4 Manufactured Homes as Real Property Act.

5 (Source: P.A. 91-441, eff. 1-1-00.)

6 (625 ILCS 5/3-103) (from Ch. 95 1/2, par. 3-103)

7 Sec. 3-103. Optional certificate of title.

8 (a) The owner of an implement of husbandry or special
9 mobile equipment may apply for and obtain a certificate of
10 title on it. All of the provisions of this chapter, except part
11 (e) of Section 3-104, are applicable to a certificate of title
12 so issued, except that a person who receives a transfer of an
13 interest in the vehicle without knowledge of the certificate of
14 title is not prejudiced by reason of the existence of the
15 certificate, and the perfection of a security interest under
16 this act is not effective until the lienholder has complied
17 with the provisions of applicable law which otherwise relate to
18 the perfection of security interests in personal property.

19 An application for an optional certificate of title must be
20 accompanied by either an exemption determination from the
21 Department of Revenue showing that no tax imposed under the
22 "Use Tax Act" or the "Retailers' Occupation Tax Act" is owed by
23 anyone with respect to that vehicle or by a receipt from the
24 Department of Revenue showing that any tax so imposed has been
25 paid. No optional certificate of title shall be issued in the

1 absence of such a receipt or exemption determination.

2 If the proof of payment or of nonliability is, after the
3 issuance of the optional certificate of title, found to be
4 invalid, the Secretary of State shall revoke the optional
5 certificate of title and require that it be returned to him.

6 (b) The owner of a manufactured home that is permanently
7 affixed to real estate and for which a certificate of title has
8 not previously been issued and surrendered for cancellation,
9 may apply for a certificate of title, including, if applicable,
10 a certificate of title issued in accordance with subsection (b)
11 of Section 3-109, which shall be issued for the sole purpose of
12 (i) surrendering such certificate of title for cancellation in
13 accordance with Section 3-116.2 of this Code or (ii) satisfying
14 the requirements of subsection (e) (4) of Section 9-334 of the
15 Uniform Commercial Code. The Secretary of State shall issue a
16 certificate of title, in accordance with this Chapter, upon
17 satisfaction of the application requirements of this Code.

18 (Source: P.A. 78-1165.)

19 (625 ILCS 5/3-104) (from Ch. 95 1/2, par. 3-104)

20 Sec. 3-104. Application for certificate of title.

21 (a) The application for a certificate of title for a
22 vehicle in this State must be made by the owner to the
23 Secretary of State on the form prescribed and must contain:

24 1. The name, Illinois residence and mail address of the
25 owner;

1 2. A description of the vehicle including, so far as
2 the following data exists: Its make, year-model,
3 identifying number, type of body, whether new or used, as
4 to house trailers as defined in Section 1-128 of this Code,
5 and as to manufactured homes as defined in Section
6 1-145.002 of this Code, the square footage ~~of the house~~
7 ~~trailer~~ based upon the outside dimensions ~~of the house~~
8 ~~trailer~~ excluding the length of the tongue and hitch, and,
9 as to vehicles of the second division, whether for-hire,
10 not-for-hire, or both for-hire and not-for-hire;

11 3. The date of purchase by applicant and, if
12 applicable, the name and address of the person from whom
13 the vehicle was acquired and the names and addresses of any
14 lienholders in the order of their priority and signatures
15 of owners;

16 4. The current odometer reading at the time of transfer
17 and that the stated odometer reading is one of the
18 following: actual mileage, not the actual mileage or
19 mileage is in excess of its mechanical limits; and

20 5. Any further information the Secretary of State
21 reasonably requires to identify the vehicle and to enable
22 him to determine whether the owner is entitled to a
23 certificate of title and the existence or nonexistence of
24 security interests in the vehicle.

25 (a-5) The Secretary of State shall designate on the
26 prescribed application form a space where the owner of a

1 vehicle may designate a beneficiary, to whom ownership of the
2 vehicle shall pass in the event of the owner's death.

3 (b) If the application refers to a vehicle purchased from a
4 dealer, it must also be signed by the dealer as well as the
5 owner, and the dealer must promptly mail or deliver the
6 application and required documents to the Secretary of State.

7 (c) If the application refers to a vehicle last previously
8 registered in another State or country, the application must
9 contain or be accompanied by:

10 1. Any certified document of ownership so recognized
11 and issued by the other State or country and acceptable to
12 the Secretary of State, and

13 2. Any other information and documents the Secretary of
14 State reasonably requires to establish the ownership of the
15 vehicle and the existence or nonexistence of security
16 interests in it.

17 (d) If the application refers to a new vehicle it must be
18 accompanied by the Manufacturer's Statement of Origin, or other
19 documents as required and acceptable by the Secretary of State,
20 with such assignments as may be necessary to show title in the
21 applicant.

22 (e) If an application refers to a vehicle rebuilt from a
23 vehicle previously salvaged, that application shall comply
24 with the provisions set forth in Sections 3-302 through 3-304
25 of this Code.

26 (f) An application for a certificate of title for any

1 vehicle, whether purchased in Illinois or outside Illinois, and
2 even if previously registered in another State, must be
3 accompanied by either an exemption determination from the
4 Department of Revenue showing that no tax imposed pursuant to
5 the Use Tax Act or the vehicle use tax imposed by Section
6 3-1001 of the Illinois Vehicle Code is owed by anyone with
7 respect to that vehicle, or a receipt from the Department of
8 Revenue showing that any tax so imposed has been paid. An
9 application for a certificate of title for any vehicle
10 purchased outside Illinois, even if previously registered in
11 another state, must be accompanied by either an exemption
12 determination from the Department of Revenue showing that no
13 tax imposed pursuant to the Municipal Use Tax Act or the County
14 Use Tax Act is owed by anyone with respect to that vehicle, or
15 a receipt from the Department of Revenue showing that any tax
16 so imposed has been paid. In the absence of such a receipt for
17 payment or determination of exemption from the Department, no
18 certificate of title shall be issued to the applicant.

19 If the proof of payment of the tax or of nonliability
20 therefor is, after the issuance of the certificate of title and
21 display certificate of title, found to be invalid, the
22 Secretary of State shall revoke the certificate and require
23 that the certificate of title and, when applicable, the display
24 certificate of title be returned to him.

25 (g) If the application refers to a vehicle not manufactured
26 in accordance with federal safety and emission standards, the

1 application must be accompanied by all documents required by
2 federal governmental agencies to meet their standards before a
3 vehicle is allowed to be issued title and registration.

4 (h) If the application refers to a vehicle sold at public
5 sale by a sheriff, it must be accompanied by the required fee
6 and a bill of sale issued and signed by a sheriff. The bill of
7 sale must identify the new owner's name and address, the year
8 model, make and vehicle identification number of the vehicle,
9 court order document number authorizing such sale, if
10 applicable, and the name and address of any lienholders in
11 order of priority, if applicable.

12 (i) If the application refers to a vehicle for which a
13 court of law determined the ownership, it must be accompanied
14 with a certified copy of such court order and the required fee.
15 The court order must indicate the new owner's name and address,
16 the complete description of the vehicle, if known, the name and
17 address of the lienholder, if any, and must be signed and dated
18 by the judge issuing such order.

19 (j) If the application refers to a vehicle sold at public
20 auction pursuant to the Labor and Storage Lien (Small Amount)
21 Act, it must be accompanied by an affidavit or affirmation
22 furnished by the Secretary of State along with the documents
23 described in the affidavit or affirmation and the required fee.

24 (k) The Secretary may provide an expedited process for the
25 issuance of vehicle titles. Expedited title applications must
26 be delivered to the Secretary of State's Vehicle Services

1 Department in Springfield by express mail service or hand
2 delivery. Applications must be complete, including necessary
3 forms, fees, and taxes. Applications received before noon on a
4 business day will be processed and shipped that same day.
5 Applications received after noon on a business day will be
6 processed and shipped the next business day. The Secretary
7 shall charge an additional fee of \$30 for this service, and
8 that fee shall cover the cost of return shipping via an express
9 mail service. All fees collected by the Secretary of State for
10 expedited services shall be deposited into the Motor Vehicle
11 License Plate Fund. In the event the Vehicle Services
12 Department determines that the volume of expedited title
13 requests received on a given day exceeds the ability of the
14 Vehicle Services Department to process those requests in an
15 expedited manner, the Vehicle Services Department may decline
16 to provide expedited services, and the additional fee for the
17 expedited service shall be refunded to the applicant.

18 (1) ~~(*)~~ If the application refers to a homemade trailer,
19 (i) it must be accompanied by the appropriate documentation
20 regarding the source of materials used in the construction of
21 the trailer, as required by the Secretary of State, (ii) the
22 trailer must be inspected by a Secretary of State investigator,
23 as described in Section 2-115 of this Code, prior to the
24 issuance of the title, and (iii) upon approval of the Secretary
25 of State, the trailer must have a vehicle identification
26 number, as provided by the Secretary of State, stamped or

1 riveted to the frame.

2 (m) The holder of a Manufacturer's Statement of Origin to a
3 manufactured home may deliver it to any person to facilitate
4 conveying or encumbering the manufactured home. Any person
5 receiving any such Manufacturer's Statement of Origin, so
6 delivered, holds it in trust for the person delivering it.

7 (Source: P.A. 95-784, eff. 1-1-09; 96-519, eff. 1-1-10; 96-554,
8 eff. 1-1-10; revised 9-15-09.)

9 (625 ILCS 5/3-106) (from Ch. 95 1/2, par. 3-106)

10 Sec. 3-106. Certificate of title - Issuance - Records. (a)
11 The Secretary of State shall file each application received
12 and, when satisfied as to its genuineness and regularity, and
13 that no tax imposed by the "Use Tax Act" or the vehicle use
14 tax, as imposed by Section 3-1001 of "The Illinois Vehicle
15 Code", or pursuant to the "Municipal Use Tax Act" or pursuant
16 to the "County Use Tax Act" is owed as evidenced by the receipt
17 for payment or determination of exemption from the Department
18 of Revenue provided for in Section 3-104 of this Act, and that
19 the applicant is entitled to the issuance of a certificate of
20 title, shall issue a certificate of title of the vehicle.

21 (b) The Secretary of State shall maintain a record of all
22 certificates of title issued by him under a distinctive title
23 number assigned to the vehicle; and, in the discretion of the
24 Secretary of State, in any other method determined.

25 (c) The Secretary of State shall not issue a certificate of

1 title, including a certificate of title issued in accordance
2 with subsection (b) of Section 3-109, to a manufactured home
3 for which there has been recorded an affidavit of affixation
4 pursuant to the Conveyance and Encumbrance of Manufactured
5 Homes as Real Property Act unless, with respect to the same
6 manufactured home, there has been recorded an affidavit of
7 severance pursuant to Section 55 of the Conveyance and
8 Encumbrance of Manufactured Homes as Real Property Act.

9 (d) When satisfied as to its genuineness and regularity,
10 the Secretary of State shall file, upon receipt, each affidavit
11 of affixation and affidavit of severance relating to a
12 manufactured home that is delivered in accordance with the
13 Conveyance and Encumbrance of Manufactured Homes as Real
14 Property Act.

15 (e) The Secretary of State shall maintain a record of each
16 affidavit of affixation and each affidavit of severance filed
17 in accordance with subsection (d) of this Section. The record
18 shall state the name of the owner of the related manufactured
19 home, the name of the manufacturer, the make, model name, model
20 year, and vehicle identification number, and any other data the
21 Secretary of State prescribes.

22 (f) When satisfied as to its genuineness and regularity,
23 the Secretary of State shall file, upon receipt, each
24 application for surrender of the Manufacturer's Statement of
25 Origin relating to a manufactured home that is delivered in
26 accordance with Section 3-116.1 of this Code.

1 (g) When satisfied as to its genuineness and regularity,
2 the Secretary of State shall file, upon receipt, each
3 application for surrender of the certificate of title relating
4 to a manufactured home that is delivered in accordance with
5 Section 3-116.2 of this Code.

6 (h) The Secretary of State shall maintain a record,
7 including a record in the form of a searchable electronic
8 database accessible to the public, of each Manufacturer's
9 Statement of Origin accepted for surrender as provided in
10 Section 3-116.1. The record shall state the name of each owner
11 of the related manufactured home, the date the Manufacturer's
12 Statement of Origin was accepted for surrender, the name of the
13 manufacturer, the make, model name, model year, and vehicle
14 identification number, and any other data the Secretary of
15 State prescribes.

16 (i) The Secretary of State shall maintain a record,
17 including a record in the form of a searchable electronic
18 database accessible to the public, of each manufactured home
19 certificate of title accepted for surrender as provided in
20 Section 3-116.2 of this Code. The record shall state the name
21 of each owner of the related manufactured home, the date the
22 certificate of title was accepted for surrender, the name of
23 the manufacturer, the make, model name, model year, and vehicle
24 identification number, and any other data the Secretary of
25 State prescribes.

26 (Source: P.A. 86-444.)

1 (625 ILCS 5/3-107) (from Ch. 95 1/2, par. 3-107)

2 Sec. 3-107. Contents and effect.

3 (a) Each certificate of title issued by the Secretary of
4 State shall contain:

5 1. the date issued;

6 2. the name and address of the owner;

7 3. the names and addresses of any lienholders, in the
8 order of priority as shown on the application or, if the
9 application is based on a certificate of title, as shown on
10 the certificate;

11 4. the title number assigned to the vehicle;

12 5. a description of the vehicle including, so far as
13 the following data exists: its make, year-model,
14 identifying number, type of body, whether new or used, as
15 to house trailers as defined in Section 1-128 of this Code,
16 and as to manufactured homes as defined in Section
17 1-145.002 of this Code, the square footage of the vehicle
18 based upon the outside dimensions ~~of the house trailer~~
19 excluding the length of the tongue and hitch, and, if a new
20 vehicle, the date of the first sale of the vehicle for use;

21 6. an odometer certification as provided for in this
22 Code; and

23 7. any other data the Secretary of State prescribes.

24 (a-5) In the event the applicant seeks to have the vehicle
25 titled as a custom vehicle or street rod, that fact must be

1 stated in the application. The custom vehicle or street rod
2 must be inspected as required by Section 3-406 of this Code
3 prior to issuance of the title. Upon successful completion of
4 the inspection, the vehicle may be titled in the following
5 manner. The make of the vehicle shall be listed as the make of
6 the actual vehicle or the make it is designed to resemble
7 (e.g., Ford or Chevrolet); the model of the vehicle shall be
8 listed as custom vehicle or street rod; and the year of the
9 vehicle shall be listed as the year the actual vehicle was
10 manufactured or the year it is designed to resemble. A vehicle
11 previously titled as other than a custom vehicle or street rod
12 may be issued a corrected title reflecting the custom vehicle
13 or street rod model if it otherwise meets the requirements for
14 the designation.

15 (b) The certificate of title shall contain forms for
16 assignment and warranty of title by the owner, and for
17 assignment and warranty of title by a dealer, and may contain
18 forms for applications for a certificate of title by a
19 transferee, the naming of a lienholder and the assignment or
20 release of the security interest of a lienholder.

21 (b-5) The Secretary of State shall designate on a
22 certificate of title a space where the owner of a vehicle may
23 designate a beneficiary, to whom ownership of the vehicle shall
24 pass in the event of the owner's death.

25 (c) A certificate of title issued by the Secretary of State
26 is prima facie evidence of the facts appearing on it.

1 (d) A certificate of title for a vehicle is not subject to
2 garnishment, attachment, execution or other judicial process,
3 but this subsection does not prevent a lawful levy upon the
4 vehicle.

5 (e) Any certificate of title issued by the Secretary of
6 State is subject to a lien in favor of the State of Illinois
7 for any fees or taxes required to be paid under this Act and as
8 have not been paid, as provided for in this Code.

9 (f) Notwithstanding any other provision of law, a
10 certificate of title issued by the Secretary of State to a
11 manufactured home is prima facie evidence of the facts
12 appearing on it, regardless that the manufactured home became
13 affixed, at any time and in any manner, to real property.

14 (Source: P.A. 95-784, eff. 1-1-09; 96-487, eff. 1-1-10.)

15 (625 ILCS 5/3-109) (from Ch. 95 1/2, par. 3-109)

16 Sec. 3-109. Registration without certificate of title;
17 bond. If the Secretary of State is not satisfied as to the
18 ownership of the vehicle, including, but not limited to, in the
19 case of a manufactured home, a circumstance in which the
20 manufactured home is covered by a Manufacturer's Statement of
21 Origin which the owner of the manufactured home, after diligent
22 search and inquiry, is unable to produce, or that there are no
23 undisclosed security interests in it, the Secretary of State
24 may register the vehicle but shall either:

25 (a) Withhold issuance of a certificate of title until the

1 applicant presents documents reasonably sufficient to satisfy
2 the Secretary of State as to the applicant's ownership of the
3 vehicle and that there are no undisclosed security interests in
4 it; or

5 (b) As a condition of issuing a certificate of title,
6 require the applicant to file with the Secretary of State a
7 bond in the form prescribed by the Secretary of State and
8 executed by the applicant, and either accompanied by the
9 deposit of cash with the Secretary of State or also executed by
10 a person authorized to conduct a surety business in this State.
11 The bond shall be in an amount equal to one and one-half times
12 the value of the vehicle as determined by the Secretary of
13 State and conditioned to indemnify any prior owner and
14 lienholder and any subsequent purchaser of the vehicle or
15 person acquiring any security interest in it, and their
16 respective successors in interest, against any expense, loss or
17 damage, including reasonable attorney's fees, by reason of the
18 issuance of the certificate of title of the vehicle or on
19 account of any defect in or undisclosed security interest upon
20 the right, title and interest of the applicant in and to the
21 vehicle. Any such interested person has a right of action to
22 recover on the bond for any breach of its conditions, but the
23 aggregate liability of the surety to all persons shall not
24 exceed the amount of the bond. The bond, and any deposit
25 accompanying it, shall be returned at the end of three (3)
26 years or prior thereto if (i) the vehicle is no longer

1 registered in this State and the currently valid certificate of
2 title is surrendered to the Secretary of State or (ii), in the
3 case of a certificate of title to a manufactured home, the
4 currently valid certificate of title is surrendered to the
5 Secretary of State in accordance with Section 3-116.2, unless
6 the Secretary of State has been notified of the pendency of an
7 action to recover on the bond.

8 Security deposited as a bond hereunder shall be placed by
9 the Secretary of State in the custody of the State Treasurer.

10 (c) During July, annually, the Secretary shall compile a
11 list of all bonds on deposit, pursuant to this Section, for
12 more than 3 years and concerning which he has received no
13 notice as to the pendency of any judicial proceeding that could
14 affect the disposition thereof. Thereupon, he shall promptly
15 send a notice by certified mail to the last known address of
16 each depositor advising him that his bond will be subject to
17 escheat to the State of Illinois if not claimed within 30 days
18 after the mailing date of such notice. At the expiration of
19 such time, the Secretary of State shall file with the State
20 Treasurer an order directing the transfer of such deposit to
21 the Road Fund in the State Treasury. Upon receipt of such
22 order, the State Treasurer shall make such transfer, after
23 converting to cash any other type of security. Thereafter any
24 person having a legal claim against such deposit may enforce it
25 by appropriate proceedings in the Court of Claims subject to
26 the limitations prescribed for such Court. At the expiration of

1 such limitation period such deposit shall escheat to the State
2 of Illinois.

3 (Source: P.A. 81-1458.)

4 (625 ILCS 5/3-110) (from Ch. 95 1/2, par. 3-110)

5 Sec. 3-110. Refusing certificate of title; manufactured
6 home affixed to real property.

7 The Secretary of State shall refuse issuance of a
8 certificate of title if any required fee is not paid or if he
9 has reasonable grounds to believe that:

10 (a) The applicant is not the owner of the vehicle;

11 (b) The application contains a false or fraudulent
12 statement; or

13 (c) The applicant fails to furnish required information or
14 documents or any additional information the Secretary of State
15 reasonably requires;

16 (d) The applicant has not paid to the Secretary of State
17 any fees or taxes due under this Act and have not been paid
18 upon reasonable notice and demand.

19 Except as provided in Section 3-116.2, the Secretary of
20 State shall not refuse to issue a certificate of title to a
21 manufactured home by reason of the fact that, at any time, in
22 any manner, it shall have been affixed to real property.

23 (Source: P.A. 77-641.)

24 (625 ILCS 5/3-116) (from Ch. 95 1/2, par. 3-116)

1 Sec. 3-116. When Secretary of State to issue a certificate
2 of title.

3 (a) The Secretary of State, upon receipt of a properly
4 assigned certificate of title, with an application for a
5 certificate of title, the required fee and any other documents
6 required by law, shall issue a new certificate of title in the
7 name of the transferee as owner and mail it to the first
8 lienholder named in it or, if none, to the owner or owner's
9 designee.

10 (b) The Secretary of State, upon receipt of an application
11 for a new certificate of title by a transferee other than by
12 voluntary transfer, with proof of the transfer, the required
13 fee and any other documents required by law, shall issue a new
14 certificate of title in the name of the transferee as owner.

15 (c) Any person, firm or corporation, who shall knowingly
16 possess, buy, sell, exchange or give away, or offer to buy,
17 sell, exchange or give away the certificate of title to any
18 motor vehicle which is a junk or salvage, or who shall fail to
19 surrender the certificate of title to the Secretary of State as
20 required under the provisions of this Section and Section
21 3-117.2, shall be guilty of Class 3 felony.

22 (d) The Secretary of State shall file and retain for four
23 (4) years a record of every surrendered certificate of title or
24 proof of ownership accepted by the Secretary of State, the file
25 to be maintained so as to permit the tracing of title of the
26 vehicle designated therein. These filing and retention

1 requirements shall be in addition to and not in substitution
2 for the recordkeeping requirements set forth in Section 3-106
3 of this Code, which recordkeeping requirements are not limited
4 to any period of time.

5 (e) The Secretary of State, upon receipt of an application
6 for corrected certificate of title, with the original title,
7 the required fee and any other required documents, shall issue
8 a corrected certificate of title in the name of the owner and
9 mail it to the first lienholder named in it or, if none, to the
10 owner or owner's designee.

11 (f) The Secretary of State, upon receipt of a certified
12 copy of a court order awarding ownership to an applicant along
13 with an application for a certificate of title and the required
14 fee, shall issue a certificate of title to the applicant.

15 (Source: P.A. 90-212, eff. 1-1-98.)

16 (625 ILCS 5/3-116.1 new)

17 Sec. 3-116.1. Surrender of Manufacturer's Statement of
18 Origin to a manufactured home.

19 (a) The owner or owners of a manufactured home that is
20 covered by a Manufacturer's Statement of Origin, and that is
21 permanently affixed to real property as defined in Section 10
22 of the Conveyance and Encumbrance of Manufactured Homes as Real
23 Property Act or which the owner intends to permanently affix to
24 real property as defined in that Section 10, may surrender the
25 Manufacturer's Statement of Origin to the Secretary of State by

1 filing with the Secretary of State an application for surrender
2 of the Manufacturer's Statement of Origin, containing or
3 accompanied by:

4 (1) the name, residence, and mailing address of the
5 owner;

6 (2) a description of the manufactured home including
7 the name of the manufacturer, the make, the model name, the
8 model year, the dimensions, the vehicle identification
9 number of the manufactured home, whether it is new or used,
10 and any other information the Secretary of State requires;

11 (3) the date of purchase by the owner of the
12 manufactured home, the name and address of the person from
13 whom the home was acquired, and the names and addresses of
14 any security interest holders and lienholders in the order
15 of their apparent priority;

16 (4) a statement signed by the owner, stating either (i)
17 any facts or information known to the owner that could
18 reasonably affect the validity of the title to the
19 manufactured home or the existence or non-existence of a
20 security interest in or lien on it; or (ii) that no such
21 facts or information are known to the owner;

22 (5) a certified copy of the affidavit of affixation
23 with the original Manufacturer's Statement of Origin in
24 accordance with Section 30 of the Conveyance and
25 Encumbrance of Manufactured Homes as Real Property Act;

26 (6) the name and mailing address of each person wishing

1 written acknowledgment of surrender from the Secretary of
2 State;

3 (7) a release of security interests (if any) pursuant
4 to Section 3-205 of this Code; and

5 (8) any other information and documents the Secretary
6 of State reasonably requires to identify the owner of the
7 manufactured home and to enable him or her to determine
8 whether the owner satisfied the requirements of Section 35
9 of the Conveyance and Encumbrance of Manufactured Homes as
10 Real Property Act and is entitled to surrender the
11 Manufacturer's Statement of Origin, and the existence or
12 non-existence of security interests in or liens on the
13 manufactured home.

14 (b) When satisfied as to the genuineness and regularity of
15 the surrender of a manufactured home's Manufacturer's
16 Statement of Origin, and upon satisfaction of the requirements
17 of subsection (a) of this Section, the Secretary of State shall
18 (i) cancel the Manufacturer's Statement of Origin and update
19 his or her records pursuant to Section 3-106 of this Code and
20 (ii) provide written acknowledgment of compliance with the
21 provisions of this Section to each person identified on the
22 application for surrender of the Manufacturer's Statement of
23 Origin pursuant to subsection (a) (7) of this Section.

24 (c) Upon satisfaction of the requirements of this Section,
25 a manufactured home shall be conveyed and encumbered as
26 provided in the Conveyance and Encumbrance of Manufactured

1 Homes as Real Property Act. If the application to surrender a
2 Manufacturer's Statement of Origin is delivered to the
3 Secretary of State within 60 days of recording the related
4 affidavit of affixation with the recording officer in the
5 county in which the real property to which the manufactured
6 home is or shall be affixed and the application is thereafter
7 accepted by the Secretary of State, the requirements of this
8 Section shall be deemed satisfied as of the date the affidavit
9 of affixation is recorded.

10 (d) Upon written request, the Secretary of State shall
11 provide written acknowledgment of compliance with the
12 provisions of this Section.

13 (625 ILCS 5/3-116.2 new)

14 Sec. 3-116.2. Surrender of title to a manufactured home.

15 (a) The owner or owners of a manufactured home that is
16 covered by a certificate of title, including, if applicable, a
17 certificate of title issued in accordance with subsection (b)
18 of Section 3-109, and that is permanently affixed to real
19 property as defined in Section 10 of the Conveyance and
20 Encumbrance of Manufactured Homes as Real Property Act or which
21 the owner intends to permanently affix to real property as
22 defined in that Section 10, may surrender the manufactured
23 home's certificate of title to the Secretary of State by filing
24 with the Secretary of State an application for surrender of
25 title, containing or accompanied by:

1 (1) the name, residence, and mailing address of the
2 owner;

3 (2) a description of the manufactured home including
4 the name of the manufacturer, the make, the model name, the
5 model year, the dimensions, the vehicle identification
6 number or numbers of the manufactured home, whether it is
7 new or used, and any other information the Secretary of
8 State requires;

9 (3) the date of purchase by the owner of the
10 manufactured home, the name and address of the person from
11 whom the home was acquired, and the names and addresses of
12 any security interest holders and lienholders in the order
13 of their apparent priority;

14 (4) a statement signed by the owner, stating either,
15 (i) any facts or information known to the owner that could
16 reasonably affect the validity of the title to the
17 manufactured home or the existence or non-existence of a
18 security interest in or lien on it; or (ii) that no such
19 facts or information are known to the owner;

20 (5) a certified copy of the affidavit of affixation as
21 provided by Section 30 of the Conveyance and Encumbrance of
22 Manufactured Homes as Real Property Act;

23 (6) the original certificate of title;

24 (7) the name and mailing address of each person wishing
25 written acknowledgment of surrender from the Secretary of
26 State;

1 (8) a release of security interests (if any) pursuant
2 to Section 3-205 of this Code; and

3 (9) any other information and documents the Secretary
4 of State reasonably requires to identify the owner of the
5 manufactured home and to enable him or her to determine
6 whether the owner satisfied the requirements of Section 35
7 of the Conveyance and Encumbrance of Manufactured Homes as
8 Real Property Act and is entitled to surrender the
9 certificate of title and the existence or non-existence of
10 security interests in or liens on the manufactured home.

11 (b) The Secretary of State shall not accept for surrender a
12 certificate of title to a manufactured home unless and until
13 all security interests or liens perfected pursuant to Sections
14 3-106 and 3-202 of this Code have been released.

15 (c) When satisfied as to the genuineness and regularity of
16 the surrender of a manufactured home's certificate of title,
17 and upon satisfaction of the requirements of subsections (a)
18 and (b) of this Section, the Secretary of State shall (i)
19 cancel the certificate of title and update his or her records
20 in accordance with the provisions of Section 3-106 of this Code
21 and (ii) provide written acknowledgment of compliance with the
22 provisions of this Section to each person identified on the
23 application for surrender of title pursuant to subsection
24 (a) (7) of this Section.

25 (d) Upon satisfaction of the requirements of this Section,
26 a manufactured home shall be conveyed and encumbered as

1 provided in Section 40 of the Conveyance and Encumbrance of
2 Manufactured Homes as Real Property Act. If the application to
3 surrender a certificate of title is delivered to the Secretary
4 of State within 60 days of recording the related affidavit of
5 affixation with the recording officer in the county in which
6 the real property to which the manufactured home is or shall be
7 affixed, and the application is thereafter accepted by the
8 Secretary of State, the requirements of this Section shall be
9 deemed satisfied as of the date the affidavit of affixation is
10 recorded.

11 (e) Upon written request, the Secretary of State shall
12 provide written acknowledgment of compliance with the
13 provisions of this Section.

14 (625 ILCS 5/3-116.3 new)

15 Sec. 3-116.3. Application for a certificate of title to a
16 severed manufactured home.

17 (a) Notwithstanding any other provision of law, where a
18 manufactured home has been permanently affixed to real
19 property, and an affidavit of affixation has been recorded as
20 part of the real property records in the county in which the
21 manufactured home is located in accordance with the Conveyance
22 and Encumbrance of Manufactured Homes as Real Property Act, and
23 where the manufactured home subsequently is detached or severed
24 from the real property, the owner or owners of the manufactured
25 home shall, unless exempted by other provisions of this Code,

1 apply for a new certificate of title by filing with the
2 Secretary of State an application for a certificate of title to
3 a manufactured home, to be issued in accordance with subsection
4 (b) of section 3-109, containing or accompanied by:

5 (1) the name, residence, and mailing address of the
6 owner;

7 (2) a description of the manufactured home including
8 the name of the manufacturer, the make, the model name, the
9 model year, the dimensions, the vehicle identification
10 number or numbers of the manufactured home, whether it is
11 new or used, and any other information the Secretary of
12 State requires;

13 (3) a statement signed by the applicant, stating
14 either: (i) any facts or information known to the applicant
15 that could reasonably affect the validity of the title of
16 the manufactured home or the existence or non-existence of
17 any security interest in or lien on it; or (ii) that no
18 such facts or information are known to the applicant;

19 (4) a certified copy of the affidavit of severance
20 provided in accordance with Section 55 of the Conveyance
21 and Encumbrance of Manufactured Homes as Real Property Act;
22 and

23 (5) any other information and documents the Secretary
24 of State reasonably requires.

25 (b) Upon satisfaction of the requirements of subsection (a)
26 of this Section and subsection (b) of Section 3-109, the

1 Secretary of State shall issue a new certificate of title
2 pursuant to subsection (b) of Section 3-109 and update his or
3 her records in accordance with the provisions of Section 3-106
4 of this Code.

5 (c) Immediately upon satisfaction of the requirements of
6 this Section and thereafter, a manufactured home shall be
7 conveyed and encumbered as personal property.

8 (625 ILCS 5/3-202) (from Ch. 95 1/2, par. 3-202)

9 Sec. 3-202. Perfection of security interest.

10 (a) Unless excepted by Section 3-201, a security interest
11 in a vehicle of a type for which a certificate of title is
12 required is not valid against subsequent transferees or
13 lienholders of the vehicle unless perfected as provided in this
14 Act. A purchase money security interest in a manufactured home
15 is perfected against the rights of judicial lien creditors and
16 execution creditors on and after the date such purchase money
17 security interest attaches.

18 (b) A security interest is perfected by the delivery to the
19 Secretary of State of the existing certificate of title, if
20 any, an application for a certificate of title containing the
21 name and address of the lienholder and the required fee. The
22 security interest is perfected as of the time of its creation
23 if the delivery to the Secretary of State is completed within
24 30 days after the creation of the security interest or receipt
25 by the new lienholder of the existing certificate of title from

1 a prior lienholder or licensed dealer, otherwise as of the time
2 of the delivery.

3 (c) If a vehicle is subject to a security interest when
4 brought into this State, the validity of the security interest
5 is determined by the law of the jurisdiction where the vehicle
6 was when the security interest attached, subject to the
7 following:

8 1. If the parties understood at the time the security
9 interest attached that the vehicle would be kept in this
10 State and it was brought into this State within 30 days
11 thereafter for purposes other than transportation through
12 this State, the validity of the security interest in this
13 State is determined by the law of this State.

14 2. If the security interest was perfected under the law
15 of the jurisdiction where the vehicle was when the security
16 interest attached, the following rules apply:

17 (A) If the name of the lienholder is shown on an
18 existing certificate of title issued by that
19 jurisdiction, his security interest continues
20 perfected in this State.

21 (B) If the name of the lienholder is not shown on
22 an existing certificate of title issued by that
23 jurisdiction, a security interest may be perfected by
24 the lienholder delivering to the Secretary of State the
25 prescribed notice and by payment of the required fee.
26 Such security interest is perfected as of the time of

1 delivery of the prescribed notice and payment of the
2 required fee.

3 3. If the security interest was not perfected under the
4 law of the jurisdiction where the vehicle was when the
5 security interest attached, it may be perfected in this
6 State; in that case perfection dates from the time of
7 perfection in this State.

8 4. A security interest may be perfected under paragraph
9 3 of this subsection either as provided in subsection (b)
10 or by the lienholder delivering to the Secretary of State a
11 notice of security interest in the form the Secretary of
12 State prescribes and the required fee.

13 (d) Except as otherwise provided in the Conveyance and
14 Encumbrance of Manufactured Homes as Real Property Act and
15 Sections 3-116.1, 3-116.2, and 3-207 of this Code, after a
16 certificate of title has been issued for a manufactured home
17 and as long as the manufactured home is subject to any security
18 interest perfected pursuant to this Section, the Secretary of
19 State shall not file an affidavit of affixation, nor cancel the
20 Manufacturer's Statement of Origin, nor revoke the certificate
21 of title, nor issue a certificate of title under Section 3-106
22 of this Code; and, in any event, the validity and priority of
23 any security interest perfected pursuant to this Section shall
24 continue, notwithstanding the provision of any other law.

25 (Source: P.A. 95-284, eff. 1-1-08.)

1 (625 ILCS 5/3-205) (from Ch. 95 1/2, par. 3-205)

2 Sec. 3-205. Release of security interest.

3 (a) Within 21 days after receiving payment to satisfy a
4 security interest in a vehicle for which the certificate of
5 title is in the possession of the lienholder, he shall execute
6 a release of his security interest, and mail or deliver the
7 certificate and release to the next lienholder named therein,
8 or, if none, to the owner or any person who delivers to the
9 lienholder an authorization from the owner to receive the
10 certificate. If the payment is in the form of cash, a cashier's
11 check, or a certified check, the number of days is reduced to
12 10 business days. If the owner desires a new certificate
13 reflecting no lien, the certificate and release from the
14 lienholder may be submitted to the Secretary of State, along
15 with the prescribed application and required fee, for issuance
16 of that new certificate.

17 (b) Within 21 days after receiving payment to satisfy a
18 security interest in a vehicle for which the certificate of
19 title is in the possession of a prior lienholder, the
20 lienholder whose security interest is satisfied shall execute a
21 release and deliver the release to the owner or any person who
22 delivers to the lienholder an authorization from the owner to
23 receive it. If the payment is in the form of cash, a cashier's
24 check, or a certified check, the number of days is reduced to
25 10 business days. The lienholder in possession of the
26 certificate of title may either deliver the certificate to the

1 owner, or the person authorized by him, for delivery to the
2 Secretary of State, or, upon receipt of the release, may mail
3 or may deliver the certificate and release, along with
4 prescribed application and require fee, to the Secretary of
5 State, who shall issue a new certificate.

6 (c) In addition to any other penalty, a lienholder who
7 fails to execute a release of his or her security interest or
8 who fails to mail or deliver the certificate and release within
9 the time limit provided in subsection (a) or (b) is liable to
10 the person or entity that was supposed to receive the release
11 or certificate for \$150 plus reasonable attorney fees and court
12 costs. An action under this Section may be brought in small
13 claims court or in any other appropriate court.

14 (d) The holder of a security interest in or a lien on a
15 manufactured home may deliver lien release documents to any
16 person to facilitate conveying or encumbering the manufactured
17 home. Any person receiving the lien release documents, so
18 delivered, holds the documents in trust for the security
19 interest holder or the lienholder.

20 (Source: P.A. 93-621, eff. 12-15-03.)

21 (625 ILCS 5/3-207) (from Ch. 95 1/2, par. 3-207)

22 Sec. 3-207. Exclusiveness of procedure.

23 The method provided in this act of perfecting and giving
24 notice of security interests subject to this act is exclusive.
25 Security interests subject to this act are hereby exempted from

1 the provisions of law which otherwise require or relate to the
2 recording or filing of instruments creating or evidencing
3 security interests in vehicles including chattel mortgages and
4 conditional sale agreements; provided, however, that with
5 respect to a manufactured home that is or will be permanently
6 affixed to real property, upon the recording of an affidavit of
7 affixation pursuant to the Conveyance and Encumbrance of
8 Manufactured Homes as Real Property Act and satisfaction of the
9 requirements of Section 3-116.1 or 3-116.2 of this Code, as
10 applicable, any perfection or termination of a security
11 interest with respect to such permanently affixed property
12 shall be governed by the laws applicable to real property.

13 (Source: P.A. 76-1586.)

14 (625 ILCS 5/3-208) (from Ch. 95 1/2, par. 3-208)

15 Sec. 3-208. Suspension or revocation of certificates.

16 (a) (1) The Secretary of State may suspend or revoke a
17 certificate of title, upon notice and reasonable opportunity to
18 be heard in accordance with Section 2-118, when authorized by
19 any other provision of law or if he finds:

20 1. The certificate of title was fraudulently procured or
21 erroneously issued, or

22 2. The vehicle has been scrapped, dismantled or destroyed.

23 (2) Except as provided in Section 3-116.2 of this Code,
24 the Secretary of State shall not suspend or revoke a
25 certificate of title to a manufactured home by reason of

1 the fact that, at any time, in any manner, it shall have
2 been affixed to real property.

3 (b) Suspension or revocation of a certificate of title does
4 not, in itself, affect the validity of a security interest
5 noted on it.

6 (c) When the Secretary of State suspends or revokes a
7 certificate of title, the owner or person in possession of it
8 shall, immediately upon receiving notice of the suspension or
9 revocation, mail or deliver the certificate to the Secretary of
10 State.

11 (d) The Secretary of State may seize and impound any
12 certificate of title which has been suspended or revoked.

13 (Source: P.A. 76-1586.)"; and

14 on page 9, by inserting after line 9 the following:

15 "Section 105. The Code of Civil Procedure is amended by
16 changing Section 15-1213 as follows:

17 (735 ILCS 5/15-1213) (from Ch. 110, par. 15-1213)

18 Sec. 15-1213. Real Estate. "Real estate" means land or any
19 estate or interest in, over or under land (including minerals,
20 air rights, structures, fixtures and other things which by
21 custom, usage or law pass with a conveyance of land though not
22 described or mentioned in the contract of sale or instrument of
23 conveyance). "Mortgaged real estate" means the real estate

1 which is the subject of a mortgage. "Real Estate" includes a
2 manufactured home as defined in paragraph (53) of Section 9-102
3 of the Uniform Commercial Code that is real property as defined
4 in Section 40 of the Conveyance and Encumbrance of Manufactured
5 Homes as Real Property Act.

6 (Source: P.A. 84-1462.)

7 Section 110. The Conveyances Act is amended by changing
8 Section 38 as follows:

9 (765 ILCS 5/38) (from Ch. 30, par. 37)

10 Sec. 38. The term "real estate," as used in this act, shall
11 be construed as co-extensive in meaning with "lands, tenements
12 and hereditaments," and as embracing all chattels real. "Real
13 estate" and "real property" include a manufactured home as
14 defined in paragraph (53) of Section 9-102 of the Uniform
15 Commercial Code that is real property as defined in Section 40
16 of the Conveyance and Encumbrance of Manufactured Homes as Real
17 Property Act. This act shall not be construed so as to embrace
18 last wills, except as herein expressly provided.

19 (Source: P.A. 84-551.)

20 Section 115. The Residential Real Property Disclosure Act
21 is amended by changing Section 5 as follows:

22 (765 ILCS 77/5)

1 Sec. 5. Definitions. As used in this Act, unless the
2 context otherwise requires the following terms have the meaning
3 given in this Section.

4 "Residential real property" means real property improved
5 with not less than one nor more than 4 residential dwelling
6 units; units in residential cooperatives; or, condominium
7 units, including the limited common elements allocated to the
8 exclusive use thereof that form an integral part of the
9 condominium unit. The term includes a manufactured home as
10 defined in paragraph (53) of Section 9-102 of the Uniform
11 Commercial Code that is real property as defined in Section 40
12 of the Conveyance and Encumbrance of Manufactured Homes as Real
13 Property Act.

14 "Seller" means every person or entity who is an owner,
15 beneficiary of a trust, contract purchaser or lessee of a
16 ground lease, who has an interest (legal or equitable) in
17 residential real property. However, "seller" shall not include
18 any person who has both (i) never occupied the residential real
19 property and (ii) never had the management responsibility for
20 the residential real property nor delegated such
21 responsibility for the residential real property to another
22 person or entity.

23 "Prospective buyer" means any person or entity negotiating
24 or offering to become an owner or lessee of residential real
25 property by means of a transfer for value to which this Act
26 applies.

1 (Source: P.A. 90-383, eff. 1-1-98.)

2 Section 120. The Mortgage Act is amended by adding Section
3 13.1 as follows:

4 (765 ILCS 905/13.1 new)

5 Sec. 13.1. Definition. As used in this Act:

6 "Real estate" and "real property" include a manufactured
7 home as defined in paragraph (53) of Section 9-102 of the
8 Uniform Commercial Code that is real property as defined in
9 Section 40 of the Conveyance and Encumbrance of Manufactured
10 Homes as Real Property Act.

11 Section 125. The Joint Tenancy Act is amended by adding
12 Section 5 as follows:

13 (765 ILCS 1005/5 new)

14 Sec. 5. Definition. As used in this Act:

15 "Real estate" and "real property" include a manufactured
16 home as defined in paragraph (53) of Section 9-102 of the
17 Uniform Commercial Code that is real property as defined in
18 Section 40 of the Conveyance and Encumbrance of Manufactured
19 Homes as Real Property Act.

20 Section 130. The Interest Act is amended by changing
21 Sections 4, 4.2, and 4a as follows:

1 (815 ILCS 205/4) (from Ch. 17, par. 6404)

2 Sec. 4. General interest rate.

3 (1) Except as otherwise provided in Section 4.05, in all
4 written contracts it shall be lawful for the parties to
5 stipulate or agree that 9% per annum, or any less sum of
6 interest, shall be taken and paid upon every \$100 of money
7 loaned or in any manner due and owing from any person to any
8 other person or corporation in this state, and after that rate
9 for a greater or less sum, or for a longer or shorter time,
10 except as herein provided.

11 The maximum rate of interest that may lawfully be
12 contracted for is determined by the law applicable thereto at
13 the time the contract is made. Any provision in any contract,
14 whether made before or after July 1, 1969, which provides for
15 or purports to authorize, contingent upon a change in the
16 Illinois law after the contract is made, any rate of interest
17 greater than the maximum lawful rate at the time the contract
18 is made, is void.

19 It is lawful for a state bank or a branch of an
20 out-of-state bank, as those terms are defined in Section 2 of
21 the Illinois Banking Act, to receive or to contract to receive
22 and collect interest and charges at any rate or rates agreed
23 upon by the bank or branch and the borrower. It is lawful for a
24 savings bank chartered under the Savings Bank Act or a savings
25 association chartered under the Illinois Savings and Loan Act

1 of 1985 to receive or contract to receive and collect interest
2 and charges at any rate agreed upon by the savings bank or
3 savings association and the borrower.

4 It is lawful to receive or to contract to receive and
5 collect interest and charges as authorized by this Act and as
6 authorized by the Consumer Installment Loan Act and by the
7 "Consumer Finance Act", approved July 10, 1935, as now or
8 hereafter amended, or by the Payday Loan Reform Act. It is
9 lawful to charge, contract for, and receive any rate or amount
10 of interest or compensation with respect to the following
11 transactions:

12 (a) Any loan made to a corporation;

13 (b) Advances of money, repayable on demand, to an
14 amount not less than \$5,000, which are made upon warehouse
15 receipts, bills of lading, certificates of stock,
16 certificates of deposit, bills of exchange, bonds or other
17 negotiable instruments pledged as collateral security for
18 such repayment, if evidenced by a writing;

19 (c) Any credit transaction between a merchandise
20 wholesaler and retailer; any business loan to a business
21 association or copartnership or to a person owning and
22 operating a business as sole proprietor or to any persons
23 owning and operating a business as joint venturers, joint
24 tenants or tenants in common, or to any limited
25 partnership, or to any trustee owning and operating a
26 business or whose beneficiaries own and operate a business,

1 except that any loan which is secured (1) by an assignment
2 of an individual obligor's salary, wages, commissions or
3 other compensation for services, or (2) by his household
4 furniture or other goods used for his personal, family or
5 household purposes shall be deemed not to be a loan within
6 the meaning of this subsection; and provided further that a
7 loan which otherwise qualifies as a business loan within
8 the meaning of this subsection shall not be deemed as not
9 so qualifying because of the inclusion, with other security
10 consisting of business assets of any such obligor, of real
11 estate occupied by an individual obligor solely as his
12 residence. The term "business" shall be deemed to mean a
13 commercial, agricultural or industrial enterprise which is
14 carried on for the purpose of investment or profit, but
15 shall not be deemed to mean the ownership or maintenance of
16 real estate occupied by an individual obligor solely as his
17 residence;

18 (d) Any loan made in accordance with the provisions of
19 Subchapter I of Chapter 13 of Title 12 of the United States
20 Code, which is designated as "Housing Renovation and
21 Modernization";

22 (e) Any mortgage loan insured or upon which a
23 commitment to insure has been issued under the provisions
24 of the National Housing Act, Chapter 13 of Title 12 of the
25 United States Code;

26 (f) Any mortgage loan guaranteed or upon which a

1 commitment to guaranty has been issued under the provisions
2 of the Veterans' Benefits Act, Subchapter II of Chapter 37
3 of Title 38 of the United States Code;

4 (g) Interest charged by a broker or dealer registered
5 under the Securities Exchange Act of 1934, as amended, or
6 registered under the Illinois Securities Law of 1953,
7 approved July 13, 1953, as now or hereafter amended, on a
8 debit balance in an account for a customer if such debit
9 balance is payable at will without penalty and is secured
10 by securities as defined in Uniform Commercial
11 Code-Investment Securities;

12 (h) Any loan made by a participating bank as part of
13 any loan guarantee program which provides for loans and for
14 the refinancing of such loans to medical students, interns
15 and residents and which are guaranteed by the American
16 Medical Association Education and Research Foundation;

17 (i) Any loan made, guaranteed, or insured in accordance
18 with the provisions of the Housing Act of 1949, Subchapter
19 III of Chapter 8A of Title 42 of the United States Code and
20 the Consolidated Farm and Rural Development Act,
21 Subchapters I, II, and III of Chapter 50 of Title 7 of the
22 United States Code;

23 (j) Any loan by an employee pension benefit plan, as
24 defined in Section 3 (2) of the Employee Retirement Income
25 Security Act of 1974 (29 U.S.C.A. Sec. 1002), to an
26 individual participating in such plan, provided that such

1 loan satisfies the prohibited transaction exemption
2 requirements of Section 408 (b) (1) (29 U.S.C.A. Sec. 1108
3 (b) (1)) or Section 2003 (a) (26 U.S.C.A. Sec. 4975 (d)
4 (1)) of the Employee Retirement Income Security Act of
5 1974;

6 (k) Written contracts, agreements or bonds for deed
7 providing for installment purchase of real estate,
8 including a manufactured home as defined in paragraph (53)
9 of Section 9-102 of the Uniform Commercial Code that is
10 real property as defined in Section 40 of the Conveyance
11 and Encumbrance of Manufactured Homes as Real Property Act;

12 (1) Loans secured by a mortgage on real estate,
13 including a manufactured home as defined in paragraph (53)
14 of Section 9-102 of the Uniform Commercial Code that is
15 real property as defined in Section 40 of the Conveyance
16 and Encumbrance of Manufactured Homes as Real Property Act;

17 (m) Loans made by a sole proprietorship, partnership,
18 or corporation to an employee or to a person who has been
19 offered employment by such sole proprietorship,
20 partnership, or corporation made for the sole purpose of
21 transferring an employee or person who has been offered
22 employment to another office maintained and operated by the
23 same sole proprietorship, partnership, or corporation;

24 (n) Loans to or for the benefit of students made by an
25 institution of higher education.

26 (2) Except for loans described in subparagraph (a), (c),

1 (d), (e), (f) or (i) of subsection (1) of this Section, and
2 except to the extent permitted by the applicable statute for
3 loans made pursuant to Section 4a or pursuant to the Consumer
4 Installment Loan Act:

5 (a) Whenever the rate of interest exceeds 8% per annum
6 on any written contract, agreement or bond for deed
7 providing for the installment purchase of residential real
8 estate, or on any loan secured by a mortgage on residential
9 real estate, it shall be unlawful to provide for a
10 prepayment penalty or other charge for prepayment.

11 (b) No agreement, note or other instrument evidencing a
12 loan secured by a mortgage on residential real estate, or
13 written contract, agreement or bond for deed providing for
14 the installment purchase of residential real estate, may
15 provide for any change in the contract rate of interest
16 during the term thereof. However, if the Congress of the
17 United States or any federal agency authorizes any class of
18 lender to enter, within limitations, into mortgage
19 contracts or written contracts, agreements or bonds for
20 deed in which the rate of interest may be changed during
21 the term of the contract, any person, firm, corporation or
22 other entity not otherwise prohibited from entering into
23 mortgage contracts or written contracts, agreements or
24 bonds for deed in Illinois may enter into mortgage
25 contracts or written contracts, agreements or bonds for
26 deed in which the rate of interest may be changed during

1 the term of the contract, within the same limitations.

2 (3) In any contract or loan which is secured by a mortgage,
3 deed of trust, or conveyance in the nature of a mortgage, on
4 residential real estate, the interest which is computed,
5 calculated, charged, or collected pursuant to such contract or
6 loan, or pursuant to any regulation or rule promulgated
7 pursuant to this Act, may not be computed, calculated, charged
8 or collected for any period of time occurring after the date on
9 which the total indebtedness, with the exception of late
10 payment penalties, is paid in full.

11 For purposes of this Section, a prepayment shall mean the
12 payment of the total indebtedness, with the exception of late
13 payment penalties if incurred or charged, on any date before
14 the date specified in the contract or loan agreement on which
15 the total indebtedness shall be paid in full, or before the
16 date on which all payments, if timely made, shall have been
17 made. In the event of a prepayment of the indebtedness which is
18 made on a date after the date on which interest on the
19 indebtedness was last computed, calculated, charged, or
20 collected but before the next date on which interest on the
21 indebtedness was to be calculated, computed, charged, or
22 collected, the lender may calculate, charge and collect
23 interest on the indebtedness for the period which elapsed
24 between the date on which the prepayment is made and the date
25 on which interest on the indebtedness was last computed,
26 calculated, charged or collected at a rate equal to 1/360 of

1 the annual rate for each day which so elapsed, which rate shall
2 be applied to the indebtedness outstanding as of the date of
3 prepayment. The lender shall refund to the borrower any
4 interest charged or collected which exceeds that which the
5 lender may charge or collect pursuant to the preceding
6 sentence. The provisions of this amendatory Act of 1985 shall
7 apply only to contracts or loans entered into on or after the
8 effective date of this amendatory Act, but shall not apply to
9 contracts or loans entered into on or after that date that are
10 subject to Section 4a of this Act, the Consumer Installment
11 Loan Act, the Payday Loan Reform Act, or the Retail Installment
12 Sales Act, or that provide for the refund of precomputed
13 interest on prepayment in the manner provided by such Act.

14 For purposes of this Section, "real estate" and "real
15 property" include a manufactured home as defined in paragraph
16 (53) of Section 9-102 of the Uniform Commercial Code that is
17 real property as defined in Section 40 the Conveyance and
18 Encumbrance of Manufactured Homes as Real Property Act.

19 (Source: P.A. 94-13, eff. 12-6-05; 94-635, eff. 8-22-05;
20 95-331, eff. 8-21-07.)

21 (815 ILCS 205/4.2) (from Ch. 17, par. 6407)

22 Sec. 4.2. Revolving credit; billing statements;
23 disclosures. On a revolving credit which complies with
24 subparagraphs (a), (b), (c), (d) and (e) of this Section 4.2,
25 it is lawful for any bank that has its main office or, after

1 May 31, 1997, a branch in this State, a state or federal
2 savings and loan association with its main office in this
3 State, a state or federal credit union with its main office in
4 this State, or a lender licensed under the Consumer Finance
5 Act, the Consumer Installment Loan Act or the Sales Finance
6 Agency Act, as such Acts are now and hereafter amended, to
7 receive or contract to receive and collect interest in any
8 amount or at any rate agreed upon by the parties to the
9 revolving credit arrangement. It is lawful for any other lender
10 to receive or contract to receive and collect interest in an
11 amount not in excess of 1 1/2% per month of either the average
12 daily unpaid balance of the principal of the debt during the
13 billing cycle, or of the unpaid balance of the debt on
14 approximately the same day of the billing cycle. If a lender
15 under a revolving credit arrangement notifies the debtor at
16 least 30 days in advance of any lawful increase in the amount
17 or rate of interest to be charged under the revolving credit
18 arrangement, and the debtor, after the effective date of such
19 notice, incurs new debt pursuant to the revolving credit
20 arrangement, the increased interest amount or rate may be
21 applied only to any such new debt incurred under the revolving
22 credit arrangement. For purposes of determining the balances to
23 which the increased interest rate applies, all payments and
24 other credits may be deemed to be applied to the balance
25 existing prior to the change in rate until that balance is paid
26 in full. The face amount of the drafts, items, orders for the

1 payment of money, evidences of debt, or similar written
2 instruments received by the lender in connection with the
3 revolving credit, less the amounts applicable to principal from
4 time to time paid thereon by the debtor, are the unpaid balance
5 of the debt upon which the interest is computed. If the billing
6 cycle is not monthly, the maximum interest rate for the billing
7 cycle is the percentage which bears the same relation to the
8 monthly percentage provided for in the preceding sentence as
9 the number of days in the billing cycle bears to 30. For the
10 purposes of the foregoing computation, a "month" is deemed to
11 be any time of 30 consecutive days. In addition to the interest
12 charge provided for, it is lawful to receive, contract for or
13 collect a charge not exceeding 25 cents for each transaction in
14 which a loan or advance is made under the revolving credit or
15 in lieu of this additional charge an annual fee for the
16 privilege of receiving and using the revolving credit in an
17 amount not exceeding \$20. In addition, with respect to
18 revolving credit secured by an interest in real estate,
19 including a manufactured home as defined in paragraph (53) of
20 Section 9-102 of the Uniform Commercial Code that is real
21 property as defined in Section 40 of the Conveyance and
22 Encumbrance of Manufactured Homes as Real Property Act, it is
23 also lawful to receive, contract for or collect fees lawfully
24 paid to any public officer or agency to record, file or release
25 the security, and costs and disbursements actually incurred for
26 any title insurance, title examination, abstract of title,

1 survey, appraisal, escrow fees, and fees paid to a trustee in
2 connection with a trust deed.

3 (a) At or before the date a bill or statement is first
4 rendered to the debtor under a revolving credit arrangement,
5 the lender must mail or deliver to the debtor a written
6 description of the conditions under which a charge for interest
7 may be made and the method, including the rate, of computing
8 these interest charges. The rate of interest must be expressed
9 as an annual percentage rate.

10 (b) If during any billing cycle any debit or credit entry
11 is made to a debtor's revolving credit account, and if at the
12 end of that billing cycle there is an unpaid balance owing to
13 the lender from the debtor, the lender must give to the debtor
14 the following information within a reasonable time after the
15 end of the billing cycle:

16 (i) the unpaid balance at the beginning of the billing
17 cycle;

18 (ii) the date and amount of all loans or advances made
19 during the billing cycle, which information may be supplied
20 by enclosing a copy of the drafts, items, orders for the
21 payment of money, evidences of debt or similar written
22 instruments presented to the lender during the billing
23 cycle;

24 (iii) the payments by the debtor to the lender and any
25 other credits to the debtor during the billing cycle;

26 (iv) the amount of interest and other charges, if any,

1 charged to the debtor's account during the billing cycle;

2 (v) the amount which must be currently paid by the
3 debtor and the date on which that amount must be paid in
4 order to avoid delinquency;

5 (vi) the total amount remaining unpaid at the end of
6 the billing cycle and the right of the debtor to prepay
7 that amount in full without penalty; and

8 (vii) information required by (iv), (v) and (vi) must
9 be set forth in type of equal size and equal
10 conspicuousness.

11 (c) The revolving credit arrangement may provide for the
12 payment by the debtor and receipt by the lender of all costs
13 and disbursements, including reasonable attorney's fees,
14 incurred by the lender in legal proceedings to collect or
15 enforce the debt in the event of delinquency by the debtor or
16 in the event of a breach of any obligation of the debtor under
17 the arrangement.

18 (d) The lender under a revolving credit arrangement may
19 provide credit life insurance or credit accident and health
20 insurance, or both, with respect to the debtor and may charge
21 the debtor therefor. Credit life insurance and credit accident
22 and health insurance, and any charge therefor made to the
23 debtor, shall comply with Article IX 1/2 of the Illinois
24 Insurance Code, as now or hereafter amended, and all lawful
25 requirements of the Director of Insurance related thereto. This
26 insurance is in force with respect to each loan or advance made

1 under a revolving credit arrangement as soon as the loan or
2 advance is made. The purchase of this insurance from an agent,
3 broker or insurer specified by the lender may not be a
4 condition precedent to the revolving credit arrangement or to
5 the making of any loan or advance thereunder.

6 (e) Whenever interest is contracted for or received under
7 this Section, no amount in addition to the charges authorized
8 by this Act may be directly or indirectly charged, contracted
9 for or received whether as interest, service charges, costs of
10 investigations or enforcements or otherwise.

11 (f) The lender under a revolving credit arrangement must
12 compute at year end the total amount charged to the debtor's
13 account during the year, including service charges, finance
14 charges, late charges and any other charges authorized by this
15 Act, and upon request must furnish such information to the
16 debtor within 30 days after the end of the year, or if the
17 account has been terminated during such year, may give such
18 requested information within 30 days after such termination.
19 The lender shall annually inform the debtor of his right to
20 obtain such information.

21 (g) A lender who complies with the federal Truth in Lending
22 Act, amendments thereto, and any regulations issued or which
23 may be issued thereunder, shall be deemed to be in compliance
24 with the provisions of subparagraphs (a) and (b) of this
25 Section.

26 (h) Anything in this Section 4.2 to the contrary

1 notwithstanding, if the Congress of the United States or any
2 federal agency authorizes any class of lenders to enter, within
3 limitations, into a revolving credit arrangement secured by a
4 mortgage or deed of trust on residential real property, any
5 person, firm, corporation or other entity, not otherwise
6 prohibited by the Congress of the United States or any federal
7 agency from entering into revolving credit arrangements
8 secured by a mortgage or deed of trust on residential real
9 property, may enter into such arrangements within the same
10 limitations.

11 (Source: P.A. 89-208, eff. 9-29-95.)

12 (815 ILCS 205/4a) (from Ch. 17, par. 6410)

13 Sec. 4a. Installment loan rate.

14 (a) On money loaned to or in any manner owing from any
15 person, whether secured or unsecured, except where the money
16 loaned or in any manner owing is directly or indirectly for the
17 purchase price of real estate or an interest therein and is
18 secured by a lien on or retention of title to that real estate
19 or interest therein, to an amount not more than \$25,000
20 (excluding interest) which is evidenced by a written instrument
21 providing for the payment thereof in 2 or more periodic
22 installments over a period of not more than 181 months from the
23 date of the execution of the written instrument, it is lawful
24 to receive or to contract to receive and collect either:

25 (i) interest in an amount equivalent to interest

1 computed at a rate not exceeding 9% per year on the entire
2 principal amount of the money loaned or in any manner owing
3 for the period from the date of the making of the loan or
4 the incurring of the obligation for the amount owing
5 evidenced by the written instrument until the date of the
6 maturity of the last installment thereof, and to add that
7 amount to the principal, except that there shall be no
8 limit on the rate of interest which may be received or
9 contracted to be received and collected by (1) any bank
10 that has its main office or, after May 31, 1997, a branch
11 in this State; (2) a savings and loan association chartered
12 under the Illinois Savings and Loan Act of 1985, a savings
13 bank chartered under the Savings Bank Act, or a federal
14 savings and loan association established under the laws of
15 the United States and having its main office in this State;
16 or (3) any lender licensed under either the Consumer
17 Finance Act or the Consumer Installment Loan Act, but in
18 any case in which interest is received, contracted for or
19 collected on the basis of this clause (i), the debtor may
20 satisfy in full at any time before maturity the debt
21 evidenced by the written instrument, and in so satisfying
22 must receive a refund credit against the total amount of
23 interest added to the principal computed in the manner
24 provided under Section 15(f)(3) of the Consumer
25 Installment Loan Act for refunds or credits of applicable
26 interest on payment in full of precomputed loans before the

1 final installment due date; or

2 (ii) interest accrued on the principal balance from
3 time to time remaining unpaid, from the date of making of
4 the loan or the incurring of the obligation to the date of
5 the payment of the debt in full, at a rate not exceeding
6 the annual percentage rate equivalent of the rate permitted
7 to be charged under clause (i) above, but in any such case
8 the debtor may, provided that the debtor shall have paid in
9 full all interest and other charges accrued to the date of
10 such prepayment, prepay the principal balance in full or in
11 part at any time, and interest shall, upon any such
12 prepayment, cease to accrue on the principal amount which
13 has been prepaid.

14 (b) Whenever the principal amount of an installment loan is
15 \$300 or more and the repayment period is 6 months or more, a
16 minimum charge of \$15 may be collected instead of interest, but
17 only one minimum charge may be collected from the same person
18 during one year. When the principal amount of the loan
19 (excluding interest) is \$800 or less, the lender or creditor
20 may contract for and receive a service charge not to exceed \$5
21 in addition to interest; and that service charge may be
22 collected when the loan is made, but only one service charge
23 may be contracted for, received, or collected from the same
24 person during one year.

25 (c) Credit life insurance and credit accident and health
26 insurance, and any charge therefor which is deducted from the

1 loan or paid by the obligor, must comply with Article IX 1/2 of
2 the Illinois Insurance Code and all lawful requirements of the
3 Director of Insurance related thereto. When there are 2 or more
4 obligors on the loan contract, only one charge for credit life
5 insurance and credit accident and health insurance may be made
6 and only one of the obligors may be required to be insured.
7 Insurance obtained from, by or through the lender or creditor
8 must be in effect when the loan is transacted. The purchase of
9 that insurance from an agent, broker or insurer specified by
10 the lender or creditor may not be a condition precedent to the
11 granting of the loan.

12 (d) The lender or creditor may require the obligor to
13 provide property insurance on security other than household
14 goods, furniture and personal effects. The amount and term of
15 the insurance must be reasonable in relation to the amount and
16 term of the loan contract and the type and value of the
17 security, and the insurance must be procured in accordance with
18 the insurance laws of this State. The purchase of that
19 insurance from an agent, broker or insurer specified by the
20 lender or creditor may not be a condition precedent to the
21 granting of the loan.

22 (e) The lender or creditor may, if the contract provides,
23 collect a delinquency and collection charge on each installment
24 in default for a period of not less than 10 days in an amount
25 not exceeding 5% of the installment on installments in excess
26 of \$200 or \$10 on installments of \$200 or less, but only one

1 delinquency and collection charge may be collected on any
2 installment regardless of the period during which it remains in
3 default. In addition, the contract may provide for the payment
4 by the borrower or debtor of attorney's fees incurred by the
5 lender or creditor. The lender or creditor may enforce such a
6 provision to the extent of the reasonable attorney's fees
7 incurred by him in the collection or enforcement of the
8 contract or obligation. Whenever interest is contracted for or
9 received under this Section, no amount in addition to the
10 charges authorized by this Section may be directly or
11 indirectly charged, contracted for or received, except lawful
12 fees paid to a public officer or agency to record, file or
13 release security, and except costs and disbursements including
14 reasonable attorney's fees, incurred in legal proceedings to
15 collect a loan or to realize on a security after default. This
16 Section does not prohibit the receipt of any commission,
17 dividend or other benefit by the creditor or an employee,
18 affiliate or associate of the creditor from the insurance
19 authorized by this Section.

20 (f) When interest is contracted for or received under this
21 Section, the lender must disclose the following items to the
22 obligor in a written statement before the loan is consummated:

23 (1) the amount and date of the loan contract;

24 (2) the amount of loan credit using the term "amount
25 financed";

26 (3) every deduction from the amount financed or payment

1 made by the obligor for insurance and the type of insurance
2 for which each deduction or payment was made;

3 (4) every other deduction from the loan or payment made
4 by the obligor in connection with obtaining the loan;

5 (5) the date on which the finance charge begins to
6 accrue if different from the date of the transaction;

7 (6) the total amount of the loan charge for the
8 scheduled term of the loan contract with a description of
9 each amount included using the term "finance charge";

10 (7) the finance charge expressed as an annual
11 percentage rate using the term "annual percentage rate".
12 "Annual percentage rate" means the nominal annual
13 percentage rate of finance charge determined in accordance
14 with the actuarial method of computation with an accuracy
15 at least to the nearest 1/4 of 1%; or at the option of the
16 lender by application of the United States rule so that it
17 may be disclosed with an accuracy at least to the nearest
18 1/4 of 1%;

19 (8) the number, amount and due dates or periods of
20 payments scheduled to repay the loan and the sum of such
21 payments using the term "total of payments";

22 (9) the amount, or method of computing the amount of
23 any default, delinquency or similar charges payable in the
24 event of late payments;

25 (10) the right of the obligor to prepay the loan and
26 the fact that such prepayment will reduce the charge for

1 the loan;

2 (11) a description or identification of the type of any
3 security interest held or to be retained or acquired by the
4 lender in connection with the loan and a clear
5 identification of the property to which the security
6 interest relates. If after-acquired property will be
7 subject to the security interest, or if other or future
8 indebtedness is or may be secured by any such property,
9 this fact shall be clearly set forth in conjunction with
10 the description or identification of the type of security
11 interest held, retained or acquired;

12 (12) a description of any penalty charge that may be
13 imposed by the lender for prepayment of the principal of
14 the obligation with an explanation of the method of
15 computation of such penalty and the conditions under which
16 it may be imposed;

17 (13) unless the contract provides for the accrual and
18 payment of the finance charge on the balance of the amount
19 financed from time to time remaining unpaid, an
20 identification of the method of computing any unearned
21 portion of the finance charge in the event of prepayment of
22 the loan.

23 The terms "finance charge" and "annual percentage rate"
24 shall be printed more conspicuously than other terminology
25 required by this Section.

26 (g) At the time disclosures are made, the lender shall

1 deliver to the obligor a duplicate of the instrument or
2 statement by which the required disclosures are made and on
3 which the lender and obligor are identified and their addresses
4 stated. All of the disclosures shall be made clearly,
5 conspicuously and in meaningful sequence and made together on
6 either:

7 (i) the note or other instrument evidencing the
8 obligation on the same side of the page and above or
9 adjacent to the place for the obligor's signature; however,
10 where a creditor elects to combine disclosures with the
11 contract, security agreement, and evidence of a
12 transaction in a single document, the disclosures required
13 under this Section shall be made on the face of the
14 document, on the reverse side, or on both sides, provided
15 that the amount of the finance charge and the annual
16 percentage rate shall appear on the face of the document,
17 and, if the reverse side is used, the printing on both
18 sides of the document shall be equally clear and
19 conspicuous, both sides shall contain the statement,
20 "NOTICE: See other side for important information", and the
21 place for the customer's signature shall be provided
22 following the full content of the document; or

23 (ii) one side of a separate statement which identifies
24 the transaction.

25 The amount of the finance charge shall be determined as the
26 sum of all charges, payable directly or indirectly by the

1 obligor and imposed directly or indirectly by the lender as an
2 incident to or as a condition to the extension of credit,
3 whether paid or payable by the obligor, any other person on
4 behalf of the obligor, to the lender or to a third party,
5 including any of the following types of charges:

6 (1) Interest, time price differential, and any amount
7 payable under a discount or other system of additional
8 charges.

9 (2) Service, transaction, activity, or carrying
10 charge.

11 (3) Loan fee, points, finder's fee, or similar charge.

12 (4) Fee for an appraisal, investigation, or credit
13 report.

14 (5) Charges or premiums for credit life, accident,
15 health, or loss of income insurance, written in connection
16 with any credit transaction unless (a) the insurance
17 coverage is not required by the lender and this fact is
18 clearly and conspicuously disclosed in writing to the
19 obligor; and (b) any obligor desiring such insurance
20 coverage gives specific dated and separately signed
21 affirmative written indication of such desire after
22 receiving written disclosure to him of the cost of such
23 insurance.

24 (6) Charges or premiums for insurance, written in
25 connection with any credit transaction, against loss of or
26 damage to property or against liability arising out of the

1 ownership or use of property, unless a clear, conspicuous,
2 and specific statement in writing is furnished by the
3 lender to the obligor setting forth the cost of the
4 insurance if obtained from or through the lender and
5 stating that the obligor may choose the person through
6 which the insurance is to be obtained.

7 (7) Premium or other charges for any other guarantee or
8 insurance protecting the lender against the obligor's
9 default or other credit loss.

10 (8) Any charge imposed by a lender upon another lender
11 for purchasing or accepting an obligation of an obligor if
12 the obligor is required to pay any part of that charge in
13 cash, as an addition to the obligation, or as a deduction
14 from the proceeds of the obligation.

15 A late payment, delinquency, default, reinstatement or
16 other such charge is not a finance charge if imposed for actual
17 unanticipated late payment, delinquency, default or other
18 occurrence.

19 (h) Advertising for loans transacted under this Section may
20 not be false, misleading, or deceptive. That advertising, if it
21 states a rate or amount of interest, must state that rate as an
22 annual percentage rate of interest charged. In addition, if
23 charges other than for interest are made in connection with
24 those loans, those charges must be separately stated. No
25 advertising may indicate or imply that the rates or charges for
26 loans are in any way "recommended", "approved", "set" or

1 "established" by the State government or by this Act.

2 (i) A lender or creditor who complies with the federal
3 Truth in Lending Act, amendments thereto, and any regulations
4 issued or which may be issued thereunder, shall be deemed to be
5 in compliance with the provisions of subsections (f), (g) and
6 (h) of this Section.

7 (j) For purposes of this Section "real estate" includes a
8 manufactured home as defined in paragraph (53) of Section 9-102
9 of the Uniform Commercial Code that is real property as defined
10 in Section 40 of the Conveyance and Encumbrance of Manufactured
11 Homes as Real Property Act.

12 (Source: P.A. 92-483, eff. 8-23-01.)

13 Section 135. The Motor Vehicle Retail Installment Sales Act
14 is amended by changing Section 2.1 as follows:

15 (815 ILCS 375/2.1) (from Ch. 121 1/2, par. 562.1)

16 Sec. 2.1.

17 "Motor vehicle" means a motor vehicle as defined in The
18 Illinois Vehicle Code but does not include bicycles,
19 motorcycles, motor scooters, snowmobiles, trailers, ~~and~~ farm
20 equipment, and a manufactured home as defined in paragraph (53)
21 of Section 9-102 of the Uniform Commercial Code.

22 (Source: P.A. 77-1167.)

23 Section 140. The Retail Installment Sales Act is amended by

1 changing Section 2.1 as follows:

2 (815 ILCS 405/2.1) (from Ch. 121 1/2, par. 502.1)

3 Sec. 2.1. "Goods" means all goods used or purchased
4 primarily for personal, family, or household purposes. "Goods"
5 includes goods purchased primarily for agricultural purposes
6 only for the purposes of the credit disclosure requirements of
7 this Act. "Goods" includes merchandise certificates or coupons
8 issued by a retail seller to be used in their face amount in
9 the purchase of goods or services sold by such a seller but
10 does not include money or other things in action. It also
11 includes goods which are furnished or used, at the time of sale
12 or subsequently, in the modernization, rehabilitation, repair,
13 alteration, improvement, or construction of real estate so as
14 to become a part of that real estate whether or not severable
15 therefrom. "Goods" includes a manufactured home as defined in
16 paragraph (53) of Section 9-102 of the Uniform Commercial Code
17 that is not real property as defined in Section 40 of the
18 Conveyance and Encumbrance of Manufactured Homes as Real
19 Property Act. "Goods" does not include a motor vehicle as
20 defined in The Illinois Vehicle Code, but does include
21 bicycles, motorcycles, motor scooters, snowmobiles and
22 trailers when purchased primarily for personal, family or
23 household purposes. "Goods" does not include goods used or
24 purchased primarily for business or commercial purposes.

25 (Source: P.A. 77-1166.)"; and

1 on page 9, line 10 by changing "98" to "998"; and

2 on page 9, by replacing line 11 with the following;

3 "Act to Sections 3-626, 3-638, 3-645, 3-647, 3-650, and 3-680
4 of the Illinois Vehicle Code apply beginning"; and

5 on page 9, line 13 by changing "99" to "999".